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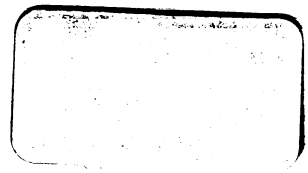

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WHAT HOME RULE MEANS NOW

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With an Appendix

CONTAINING

THE HOME RULE BILL OF 1886

AND

SECTIONS 25 TO 28 OF THE LAND PURCHASE BILL OF 1886

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WHAT HOME RULE MEANS NOW.

I.—THE BILL OF 1886.

Present starting point.

JUST seven years ago, soon after the general election of 1885, when Mr. Gladstone's secession from the Unionist cause was rumoured, though not yet acknowledged, some articles were published in these columns under the title "What Home Rule Means."* The country was then ignorant of the significance of the policy to which the leader of the Liberal party was on the point of committing himself, and many politicians who have since posed as ardent advocates of Home Rule scouted the idea that there could be a compromise, to quote Sir William Harcourt's language at Lowestoft, "with men who openly avowed their object was the dismemberment of Ireland from England."† It was easy to indicate the main lines of objection to any of the various schemes of Home Rule that were vaguely discussed. It was impossible to conjecture how far Mr. Gladstone would go to meet Mr. Parnell. We are now in a different position. The Bill introduced by Mr. Gladstone in 1886 must be the starting-point of any examination of his present policy. It is true Mr. Gladstone has made a number of concessions, some of which go to the very root of the question, and all of which tend to aggravate the mischief of his original plan.

* *Times*, Dec. 22, 24, and 26, 1885. † *Daily News*, Dec. 8, 1885.

But he has never ceased to maintain that his scheme "holds the field." In his reply to Mr. Parnell's ultimatum during the debates in Committee Room No. 15 he wrote:—"For me to propose any measure except such as Ireland could approve *on the lines already laid down* would be fatuity as regards myself and treachery to the Irish nation."*

Home Rule and Land Purchase.

The Home Rule Bill of 1886 was linked, it must be remembered, with the Land Purchase Bill, which, by a gigantic financial operation, was to secure the Irish landlords against the risk, or rather the certainty, of being plundered by a Home Rule Government. But this latter measure, introduced as a solemn "obligation of honour and policy,"† and as safeguarding the concession of legislative powers to a Parliament in Dublin, was abandoned by Mr. Gladstone the moment he discovered that he could not bribe the Irish Loyalists to surrender their connexion with Great Britain. Immediately after his defeat at the polls he hastened to announce that he had ascertained it to be his duty "explicitly to acknowledge that the sentence which has gone forth for the severance of the two measures was irresistible, and that the twinship, which has been for the time disastrous to the hopes of Ireland, existed no longer."‡ The plan embodied in the Home Rule Bill, "on the lines already laid down," must be considered, therefore, apart from the main condition for making its policy equitable and safe, subject to which it was presented to the House of Commons and to the constituencies in 1886.

"Statutory Parliament."

The object of the Home Rule Bill was to establish in Ireland a "statutory Parliament," with an Executive Government resting upon it. The Executive authority

* *Times*, December 1, 1890.

† *Hansard*, vol. 304, p. 1780.

‡ Gladstone, *Special Aspects of the Irish Question*, 1892, p. 43.

was to be vested in the Lord Lieutenant with the aid of Ministers formally nominated by the Crown, but really appointed in accordance with the wishes of an Irish Parliamentary majority. The powers of vetoing Bills and of summoning, proroguing, and dissolving the Legislature devolved upon the Viceroy, who was to be a permanent officer, chosen by the Imperial Government and paid out of Imperial funds, freed from any condition as to religious belief, and exempted from interference by statute on the part of the Irish Parliament. That the Viceroy's authority was to be exercised according to the accepted principles of British constitutionalism was implied, but was not expressly stated, nor, indeed, is there express statutory provision under our present system imposing on the Crown the necessity of acting only upon Ministerial advice. Under our unwritten Constitution no difficulty arises. Political precedents have practically settled the matter. But the application of these precedents to the language of the Bill of 1886—language selected, no doubt, in order to give colour both to the minimizing theories of English public men and to the extreme claims of Irish agitators—has led, as we shall see, on this and on other points of the highest importance, to a strange divergence of interpretation between Mr. Gladstone and some of his most influential followers.

The veto.

The legislative body, which was practically to nominate the advisers of the Viceroy, was framed neither on the bi-cameral nor on the uni-cameral system. Two "orders" were to sit and deliberate together. The first order was to consist of 28 Irish peers—the same number as that of the existing representative peers of Ireland—during 30 years after the passing of the Act; and 75 elective members (to be increased at the end of 30 years to 103), with a property qualification of £200 a-year or £4000 capital, sitting for a ten years' term, but one-half retiring every

The two "orders."

five years, and chosen by electors rated at above £25 annually. On all questions of legislation or procedure it was provided that "each order shall, if a majority of the members present of either order demand a separate vote, give their votes in like manner as if they were separate legislative bodies; and if the result of the voting of the two orders does not agree, the question shall be resolved in the negative." In the case of a disagreement of the two orders, after a dissolution or the lapse of three years, the measure that had fallen through, if again rejected by the first order and adopted by the second, might be submitted to both orders voting together, and might be determined by a simple majority. The term fixed for the life of the Legislature was five years.

Procedure.

In case of disagreement.

Restrictions.

The restrictions imposed upon this Legislature were manifold. It was prohibited from passing laws affecting the *status* or dignity of the Crown, the succession, or the regency; the making of peace and war; the Army, Navy, and public defence; treaties and foreign and colonial relations; dignities or titles; prize or booty of war and international questions and controversies; treason, alienage, and naturalization; trade, navigation, or quarantine; the postal or telegraph services (except as regards internal intercourse); beacons, lighthouses, or seamarks; coinage, currency, or weights and measures; copyright, patents, and the like. Laws made in violation of these provisions were declared to be void, but it may be noted that no such declaration was made with respect to the prohibition to legislate for the establishment or endowment of, or interference with, religion, the imposition of religious disability, or the conferring of religious privilege, the interference with denominational schools or charities, or with the conscience clause, the abrogation or alteration of the rights of existing corporations, the imposition of Customs and Excise duties, and any modification of the Act itself,

except so far as power was granted to regulate the franchise and method of election, in regard to the "second order." It will be observed that the land question was not withdrawn from the consideration of the Irish Legislature, the rights of the Irish landowners being supposed to be adequately safeguarded by the Purchase Bill.

Finance.

The reservation of the Customs and Excise duties to be levied exclusively by the Imperial Parliament brings us to the question of finance. The Irish Legislature was to be empowered to impose taxes, other than duties of Excise and Customs, the produce of which was to be paid into an Irish Consolidated Fund. With respect to the financial relations between the Imperial and the Irish Governments, the contributions of Ireland to the Imperial Consolidated Fund were fixed as follows:—

For the Irish share of the management and interest of the National Debt, ... (One-fifteenth of the whole).	£1,466,000
On account of Imperial expenditure on the Army and Navy, ... (One-fifteenth, excluding war charges and volunteers.)	1,666,000
On account of Imperial Civil Expenditure, . .	110,000
On account of the Royal Irish Constabulary and the Dublin Metropolitan Police, . . .	1,000,000
There was also to be paid to the National Debt Commissioners towards the reduction of debt (in respect of the Irish share, estimated at £48,000,000), an annual sum of . . .	360,000

The aggregate of these contributions was over £4,600,000, but provision was made for reducing certain of the items (*e. g.*, the debt charge on the capital, and the charge for the police in case of the disbanding of the force), in accordance with varying circumstances. In his speech on the introduction of the Bill, Mr. Gladstone estimated the whole of the Exchequer receipts of Ireland at £8,350,000, of which over £6,000,000 was contributed

by Excise and Customs.* Both the Customs and Excise account and the Irish Consolidated Fund were placed under the control of a Comptroller and Auditor-General for Ireland, who was to see that they were duly appropriated. The Customs and Excise account was charged in the following order:—(1) with the expenses of collection and management; (2) with the annual contributions above-mentioned to the Imperial Consolidated Fund; (3) with the contribution to the National Debt Commissioners; (4) with payments such as for possible deficits on the Irish Church Fund or the Public Loans Commission; (5) with payments to meet possible deficiencies upon the land purchase advances. The Irish Consolidated Fund was charged in similar order:—(1) with any deficiency upon the Customs and Excise account appropriated as aforesaid; (2) with the payment of any debt contracted by the Irish Government; (3) with the Irish Civil Service expenditure, excepting the Viceroy's salary; (4) with the salaries and pensions of Judges hereafter appointed; (5) with payments to meet deficits on the Church Fund and Public Loans Commission, in case the Customs and Excise account should be exhausted. The unapplied balance in each case was to be handed over to the Irish Government for its general purposes.

Customs and Excise Account.

Irish Consolidated Fund.

Lord Thring's summary of Financial results.

The effect of the complicated provisions for securing these financial results, partly embodied in the Home Rule Bill, and partly in the Land Purchase Bill, is thus summed up by Lord Thring, the draughtsman of both measures. He says:—

> It was provided that neither the Imperial taxes of Excise nor any local taxes that might be imposed by the Irish Legislature should be paid into the Irish Exchequer. An Imperial officer called the Receiver-General was appointed, into whose hands the produce of every tax, both Imperial and local, was required to be paid, and it

* *Hansard*, vol. 304, p. 1078.

was the duty of the Receiver-General to take care that all claims of the English Exchequer, including especially the contribution payable by Ireland for Imperial purposes, were satisfied before a farthing found its way into the Irish Exchequer for Irish purposes. The Receiver-General was provided with an Imperial Court to enforce his rights of Imperial taxation, and with adequate means for enforcing all Imperial powers by Imperial civil officers.—(*Contemporary Review*, March, 1887, p. 316.)

At variance with Mr. Morley.

On the last point, curiously enough, Lord Thring is at variance with Mr. Morley, who contends that, as shown by clauses 26 and 27 of the Purchase Bill (see Appendix B):—

It was the intention of the late Cabinet that both the instalments payable by tenants who bought their holdings under that Bill and the taxes imposed by the Irish Legislature should be collected, not by British officers, but by such collectors as the Irish Government may from time to time appoint for that purpose.—(*Nineteenth Century*, February, 1887, p. 312, note.)

In examining this question, on which Mr. Morley appears to be in the right, the financial clauses (12–20) of the Home Rule Bill must be read in connexion with clauses 25–28 of the Purchase Bill (see Appendix B).

Irish contribution in case of war.

Two supplementary provisions relating to finance must be noticed. Though Mr. Gladstone has always maintained that the Irish Legislature is not to meddle in matters of peace and war, an obscure and, at the time, a hardly noticed provision gives power to that Legislature to vote additional supplies in support of war measures, to be paid over to the Imperial Government. This implies, as the Duke of Argyll has pointed out, that, if the Irish Legislature wish to refuse such assistance, beyond the limited amount fixed as the Irish share of the army and navy peace establishment, they cannot be pressed to vote a penny, however urgent the need of the Imperial Government may be.

Sub-section 19.

A sub-section of the following clause, section 19, is still more remarkable:—

Notwithstanding that the Irish Legislature is prohibited by this

Act from making laws relating to certain subjects, that Legislature may, with the consent of Her Majesty in Council first obtained, appropriate any part of the Irish public revenue, or any tax, duty, or impost imposed by such Legislature, for the purpose of and in connexion with such subjects.

Thus it appears that money could be voted for endowing the Roman Catholic Church or supporting Jesuit schools if a pliant Ministry should be in power here in England. The withdrawal of the 24th clause, excluding the Irish members from the Imperial Parliament, would make pliancy of the kind apprehended more probable. The Irish Exchequer Division was constituted a Revenue Court under Imperial control [future Judges to be jointly appointed by the English Lord Chancellor and the Irish Viceroy], with power to enforce its decrees in revenue cases primarily through the sheriff and his officers; and, according to Mr. Morley, it was the intention—though not expressed in the Bill—to give this tribunal the power of drawing upon the military and other forces of the Crown, independently of the Irish Executive, for the same purpose. The position of the other existing Judges, both of the High Court and of the County Courts, was secured by reserving authority over them to the Imperial Parliament, while it also provided that, if they desired to retire, they might receive full pension, though they had not technically qualified for it. This last provision was also applied to the case of the higher civil servants retiring at the end of ten years or at the desire of the Irish Government. Existing pensions were to be charged upon the Customs and Excise Fund, supplemented by the Irish Consolidated Fund, and if necessary by the Imperial Consolidated Fund. New Irish Judges were only to be removable on the address of the two orders of the Irish Legislature voting separately. The Dublin Metropolitan Police were placed under the direct control of the Lord Lieutenant for a period of two years, and the Con-

Revenue Court.

Existing Judges.

New Judges.

Police.

stabulary so long as it existed, but the Irish Legislature was empowered to create other local police forces.

Supreme Court.

The Judicial Committee of the Imperial Privy Council was erected into something like a Supreme Court for deciding on constitutional questions. To this body, augmented for the special purpose by past or present Judges of the High Court in Ireland, the Viceroy might, before assenting to them, refer any Bills passed by the Irish Legislature as to the validity of which he was doubtful, or any similar questions arising out of any Act passed or out of any non-legislative matters; while in actual legal proceedings, where the law was challenged as unconstitutional, an appeal could be taken to the Judicial Committee, of which the decision should be final, and should exclude the appellate jurisdiction of the House of Lords. A provision was added, with the intent of saving the supreme authority of the Imperial Parliament, but this has been condemned as unsatisfactory even by the draughtsman of the Bill.* If the point is to be seriously dealt with it must be differently handled.

How the Act might be altered.

Finally, the Act itself could only be altered by calling into existence a body differing both from the Imperial Parliament, as constituted after the exclusion of the Irish members, which is that described in the Bill, and from the Irish Legislature. The Irish representative peers were to return for this purpose to the Upper House at Westminster, and one of the members for each Irish constituency, to be selected by the Irish Legislature, to the Lower House, which would thus be restored once more to its present number. If the Irish members should be retained in the Imperial Parliament, this arrangement, which might cause serious and incalculable complications in the balance of parties in the British Parliament, would, no doubt, be abandoned.

* Section 57. See Lord Thring, *Contemporary Review*, March, 1887, p. 315.

II.—OBJECTIONS AND CONCESSIONS.—RETENTION OF THE IRISH MEMBERS.

THE elaborate machinery and the complicated provisions of the Home Rule Bill of 1886, which we have summarized in the preceding article, partially concealed, and were, perhaps, intended wholly to conceal, the difficulties and the ambiguities of the policy Mr. Gladstone desired to force through the House of Commons. It would not have been surprising if Parliament and the public had been unable to see the wood for the trees. Looking back upon the controversy, which was brought to close quarters on the introduction of the Bill on April 8, and was closed for the time when, three months later, the constituencies, of the United Kingdom pronounced by a great majority against the Gladstonian scheme, we must feel astonishment at the promptitude and clearness with which the mischief and the blunders were discerned and exposed both in the House of Commons and in the Unionist Press. Lord Selborne, Lord Bramwell, Sir Henry James, Sir James Stephen, and other distinguished jurists, supplemented, from the constitutional point of view, the political arguments urged by Lord Hartington, Mr. Bright, the Duke of Argyll, Mr. Chamberlain, Mr. Goschen, Lord Derby, Lord Grey, and other Liberals of light and leading, as well as by the whole body of the Conservative party. An unparalleled consensus of opinion among men of mark not personally engaged in political strife was elicited on the side of the Union. Lord Tennyson, Mr. Froude, Professor Huxley, Mr. Matthew Arnold, Mr. Lecky, Professor Tyndall, Mr. Goldwin Smith, Sir

Jurists who criticized the Bill.

Politicians.

Men of mark.

Frederic Leighton, and Mr. Swinburne are only a few among many eminent names that could be mentioned. After the defeat of the Separatists at the polls, Professor Dicey summed up the "Case against Home Rule"* in a closely-reasoned argument, which remains the most complete and thoroughgoing analysis of the Unionist position. Though Mr. Gladstone and his followers endeavoured vainly to throw upon Unionists the responsibility of adopting a positive policy on many of the questions raised by the Bill, it was clear that a negative attitude was quite sufficient.

Professor Dicey.

The government of Ireland on Unionist principles being at once a working hypothesis and an established fact—and this has become more distinctly the case since the administration of Mr. Balfour—it was enough to show that, upon any of the different interpretations which could be given to the ambiguous and inconsistent language of Mr. Gladstone's measure, the results must fail to secure the conditions laid down as indispensable by its author. It did not effectually safeguard either the supremacy of the Imperial Parliament or the rights and liberties of Irish minorities. It contravened, in one direction or another, the elementary principles of constitutional government. It offered no reasonable hope of a "real and final settlement" of our difficulties with Ireland.

What the Bill did not do.

The impracticable character of the Bill would have been even more apparent if Mr. Parnell and his party had spoken out what was in their minds; but for reasons afterwards given in Committee Room No. 15, they were silent as to most points of difference, though reserving the right to criticize in Committee the financial arrangements characterized by Mr. Parnell at the time as "unnecessary," "absurd," "most offensive," and a "source of irritation."†

Mr. Parnell on the financial arrangements.

* The 2nd edition is referred to throughout.

† *Hansard*, vol. 304, pp. 1853–1854; see also pp. 1131–1133.

The Gladstonians, however, swallowed greedily the effusive commonplaces with which the Irish Parliamentary party professed to welcome the Bill when they found for the time that they could get no more. But Ministers looked about for concessions by which they hoped to soothe the fears or allay the discontent of the various sections they hoped to bring together into the lobby on the second reading. Mr. Gladstone himself hastened to explain that when he used the words "vital" and "essential" of several provisions of the Bill he did not intend to convey the impression that these provisions could not be modified or even dropped. Mr. Morley, though he maintained that it was not intended to remodel the measure or to "turn it inside out," admitted that it was not a "cast-iron" Bill, and admired its "flexibility of adaptation."*

Concessions by Mr. Gladstone and Mr. Morley.

First concession.

The first concessions were made just before the Bill was brought in, when the control of the Customs and Excise was reserved at the last moment to the Imperial Government and Parliament, in order to prevent Mr. Childers and Mr. Mundella, as it was understood at the time, and possibly, Sir William Harcourt, from following the example of Mr. Chamberlain and Mr. Trevelyan in resigning.

Second concession.

Then Sir Charles Russell threw overboard the principle of the two "orders,"† against which Mr. Parnell had entered a protest, and with it one of the main safeguards provided for the rights of minorities and for the independence of the judiciary.

The Purchase Bill.

The Purchase Bill, though founded by Mr. Gladstone on obligations of "honour and good faith," was from the first whittled down. The Irish landlords were warned that "the sands were running out in the hour-glass."‡ The amount assigned for buying out every landlord who chose to insist upon it was cut down from

* Speech at Glasgow, *Times*, May 1, 1886.

† *Hansard*, vol. 306, p. 58.

‡ Mr. Gladstone's Midlothian letter, *Times*, May 4, 1886.

about 120 millions sterling to 50 millions, with no explanation of the manner in which a quart was to be thus got into a pint pot. When one of Mr. Gladstone's supporters, Captain Verney, being troubled with a delicate conscience, appealed to his chief, the latter gave him a dispensation, declaring, in regard to the two measures he had pronounced to be "inseparable," that "a vote for the second reading of the Irish Government Bill leaves the giver of it absolutely free as to his vote on the Land Purchase Bill."* These indications, conveyed when Mr. Gladstone was angling for the votes of the wavering Liberals, foreshadowed the "severance of twinship" that immediately followed his defeat.

Mr. Gladstone to Captain Verney.

On one question of cardinal importance the struggle was prolonged, and had the most potent effect upon the issue. By the 24th clause it was proposed to be enacted that, after a date fixed, Ireland should wholly cease to return either representative peers or members of the House of Commons to the Imperial Parliament, except for the purpose of altering the Home Rule Constitution. It was at once perceived that this provision involved the alternatives of separation or servitude. The exclusion of the Irish members placed Ireland, so far as Imperial representation was concerned, in the position of one of the great self-governing colonies, in which the connexion with the mother country is simply preserved by mutual goodwill and by the practical abandonment of interference in local affairs by the Imperial Government and Parliament. But, as Mr. Morley has admitted, the case of Ireland under Home Rule would be altogether different:—

The 24th clause.

Mr. Morley on the difference between Ireland and a colony.

> The Lord Lieutenant, the Receiver-General, the veto, the control of the military force, the resort on occasion to the Judicial Committee of the Privy Council, all involve relations between the Irish and

* *Times*, May 28, 1886.

English Executive, and, therefore, all imply the possibility of collision between the Irish and English Legislatures.—(*Nineteenth Century*, February, 1887, p. 308.)

The exaction from Ireland, under Mr. Gladstone's Bill, of contributions to the Imperial Treasury was assailed from the first, as we have seen, by Mr. Parnell. It was inconsistent with the position of a self-governing colony, the favourite parallel of the Gladstonians, and with the fundamental doctrine of the Constitution that there shall be no taxation without representation. When Mr. Chamberlain withdrew from the Cabinet he placed this question in the forefront, declaring the retention of the Irish representatives in their full numbers at Westminster to be "the key to the situation," and their participation in the full responsibility for Imperial affairs the only means by which Imperial supremacy over a subordinate Legislature could be secured. But while Unionists generally agreed with Mr. Chamberlain in condemning the absurdity of the proposed exclusion of the Irish Members from the Imperial Parliament, which might involve Ireland in the risks and losses of a war condemned by the Irish Legislature, and which could dispose of millions of money levied upon Ireland without any representative control, they saw equal or greater difficulties in every plan that was suggested for retaining the Irish representation, entirely or partially. The dilemma was not to be escaped, and the successive phases of Mr. Gladstone's dealings with it must be carefully noted with a view to the proposals of the new Bill.

Mr. Chamberlain's "Key to the situation."

Exclusion of the Irish members.

The foundation stone of the original Home Rule speech was the exclusion of the Irish members, as the main object was to deliver the British Parliament from Irish obstruction. Mr. Morley forcibly urged this argument in his speech at Chelmsford not long before he took office,* and it was fully developed by Mr. Gladstone on the introduction of

* *Times*, January 8, 1886.

the Bill. Assuming that Ireland was to have a Legislature of her own for dealing with local affairs, were her representatives, Mr. Gladstone asked, to come to Westminster to meddle in English and Scotch affairs? It was "perfectly clear," it was "universally admitted" that they could not be allowed to do so. But, if not, "is it practicable for Irish representatives to come here for the settlement, not of English and Scotch, but of Imperial affairs?"* Mr. Gladstone was then decidedly of opinion that to distinguish between Imperial and other affairs in the British Parliament was utterly impracticable. He said:—"I have thought much, reasoned much, and inquired much with regard to that distinction. I had hoped it might be possible to draw a distinction, but I have arrived at the conclusion that it cannot be drawn. I believe it passes the wit of man. At any rate it passes, not my wit alone, but the wit of many with whom I have communicated."† Mr. Morley contended in the same sense, in addressing his constituents at Newcastle, that no plan of the kind would work: the Irish members would use their votes on Imperial questions with a view to influencing decisions on Irish matters: "You would have the present block of our business; you would have all the present irritation and exasperation. English work would not be done; Irish feelings would not be conciliated, but would be exasperated."‡ But Mr. Gladstone had to confront the growing dissatisfaction of his own followers with the effect of the clause both on Irish constitutional rights and on the supremacy of the Imperial Parliament. At the meeting of his party at the Foreign Office, while the debate on the second reading was pending,§ he announced

Mr. Gladstone's position.

Mr. Morley's position.

Gladstonian dissatisfaction.

* *Hansard*, vol. 304, pp. 1055, 1057.
† *Hansard*, vol. 304, pp. 1055, 1057.
‡ Speech at Newcastle, *Times*, April 22, 1886.
§ *Times*, May 28, 1886.

Mr. Gladstone changing his mind.

that he was prepared to attempt to draw the distinction that "passed the wit of man." "The Government," he said, "were quite willing to undertake the responsibility of framing and submitting a plan which would entitle Irish representatives to be invited to Parliament when any proposal for taxation was made which affected the condition of Ireland." And just before the final division on the Bill, he intimated that Parliament, if it so desired, was free to get rid of clause 24 altogether. In Opposition Mr. Gladstone's progress was more rapid. Instead of being merely willing to recall the Irish members to Westminster when financial questions affecting Ireland were brought forward, he had advanced in June, 1887, to the statement in his speech at Singleton Abbey,* that he and his colleagues "were perfectly open to consider the inclusion, if it should be found expedient, of the Irish members in the Westminster Parliament;"† and in July, 1888, in a speech at Sir Wilfrid Lawson's, he affirmed that he "had never had the slightest intention or disposition to interpose an objection" as to retaining the Irish members, adding that "as to the practicability of making a plan, there was no question at all about it."‡ During the North Bucks election of 1889 he treated the point as settled unconditionally. "I long ago declared," he wrote, "that the public sense appeared to be in favour of the retention of the Irish members, and, this being so, I was perfectly prepared to accede to the alteration."§ It is, no doubt, in view of these declarations that Mr. Redmond has considered himself justified in stating *sans phrase*, in the *Nineteenth Century* for October last, p. 409, that "it is

His position in June, 1887.

In July, 1888.

In October, 1889.

* [The residence of Sir Hussey Vivian, M.P., who had voted against the Bill of 1886 and retained his seat unchallenged as a Liberal Unionist, but "found salvation" afterwards.]

† *Times*, June 6, 1887.

‡ *Times*, July 19, 1888.

§ *Star*, October 1, 1889.

now admitted officially that the Irish members are to be retained at Westminster."

Public opinion on the retention of the Irish Members.

Mr. Gladstone, however, has again reckoned without public opinion. Discussion has damaged his scheme of retaining the Irish members as fatally as it damaged his scheme for excluding them. Lord Hartington, Lord Derby, Mr. Goschen, Mr. Balfour, and other acute critics have pointed out the impossibility of retaining the Irish members at Westminster, either in their present numbers or in any diminished proportion, whether for some Parliamentary purposes or for all, without gross injustice to England and unparalleled confusion in the House of Commons. If the Irish members are empowered to vote only on Imperial questions, supposing the distinction passing the wit of man to be actually drawn, what is to be the effect on the existing constitutional method of bringing in and putting out Ministries? Is a Ministry at Westminster, supported on all domestic questions by a strong working majority, to be ejected from office when the Irish members, either in their full strength of 103 or cut down illogically to one-third of that number, are called in to vote on the Army Estimates or the tea duty? If Ministers resign on the hostile vote of such a temporary majority, how is the opposite party to come in, when it can only command *ex hypothesi* the support of a minority on all English and Scotch questions? Obviously the only solution is to have two Governments, each with a different law of existence and probably of a different political complexion. The absurdity of an arrangement by which the fate of the Home Secretary, the President of the Local Government Board, the Minister of education, and so forth would be decided by different majorities and different votes from those on which the Chancellor of the Exchequer, the Foreign Secretary, and the like would depend, requires no demonstration. It

The effect.

The federal basis.

could only be evaded by a complete reconstruction of the United Kingdom on a federal basis, with one supreme Parliament strictly limited to the Imperial sphere, and with four, if not more, subordinate Legislatures controlling local affairs in England, Wales, and Scotland, as well as in Ireland. This policy of "Home Rule all round" has been disavowed, however, by Mr. Gladstone and Mr. Morley, who have both protested that they did not contemplate the rebuilding of the whole political edifice, but only the repairing of one leaking part of the fabric. Lord Derby's trenchant criticism of such a policy is not more telling than the protest recorded against it by the late Professor Freeman, one of the very few eminent men disconnected with "practical politics" who supported Mr. Gladstone in 1886. It was impossible, Mr. Freeman urged,* to make a federation of the United Kingdom on fair and workable conditions without breaking up England itself, "restoring the Heptarchy," and reducing "the Parliament of England which had done great things and made its name in the world for 600 years" to the position of a subordinate body.

Professor Freeman on federation.

Lord Derby on federation.

Lord Derby in 1888 said†:—

> If anybody believes that in these two little islands there is room for four separate national Governments, with one Imperial Government over them all—five Cabinets and five Parliaments—and that all these Cabinets and Parliaments can continue to work together, he must be of an exceptionally sanguine disposition, or must possess the happy faculty which some politicians have of being able to shut their eyes very hard.

If, then, the separation of Imperial from local affairs is not made logical and workable by a federal system which no responsible statesman has yet advocated or thought out, how are the Irish members to be retained at

* Speech at Wells, *Times*, October 5, 1889.

† Speech at Liverpool, *Times*, December 18, 1888.

Westminster without injustice to Englishmen and Scotchmen? The proposal to retain them *simpliciter* is iniquitous on the face of it. As Lord Hartington has said*:—

Lord Hartington on Irish supremacy.

> Ireland has a right, I admit, to equality of political treatment; but Ireland has no right, and I do not know who has ever claimed for Ireland the right, of political supremacy. And political supremacy it would be if, having conceded to Irishmen the right to be masters in their own house, and the right to tell us that we had no title any longer to interfere in the settlement of the most important of their own internal questions, then they were to retain the right of coming over here and settling for us, perhaps contrary to the will and the wish of the majority of our representatives, the way in which we were to conduct our own internal affairs.

This is, in truth, as Lord Derby has said, "a proposition too ridiculous for discussion."

Gladstonian protests.

But it is not among the Unionists only that the proposal to keep the Irish members at Westminster is condemned as unfair and impracticable. Mr. Labouchere and Mr. Conybeare have severally entered an emphatic protest against it, and it forms the basis of Sir Edward Reed's recent demonstration of independence. Mr. Morley has never disguised his repugnance to parting with the logical foundation of the Home Rule Policy as laid down in the Chelmsford speech.† These views receive sufficient support among the Gladstonians to make a reversion to the "exclusion" scheme, in spite of its flagrant defects, by no means improbable. Mr. Gladstone will then have boxed the compass of policy to no purpose. He has passed from the "out scheme," of the Bill of 1886 to the "in and out scheme" and thence to the "in scheme," and may have to go back to his original position. A faithful follower of his, Mr. Reid, Q.C., has summed up neatly enough in the *Contemporary Review* for April

Mr. Reid, Q.C., on the "out scheme."

* Speech at Stirling, *Times*, October 5, 1889.

† See his speech at Newcastle, *Times*, April 22, 1886.

last* the difficulties of these three schemes. The "out scheme" is "a vast innovation, either not just or not final," involving "an alteration in the *status* of Ireland which must either be followed by her release from all contributions to Imperial expenditure or provoke an unanswerable complaint of inferiority to every other self-governing part of the Empire." The "in and out scheme" involves "such instability that the mere necessity of avoiding constant changes of Government would weaken the authority of the House of Commons, and thereby enhance that of the Crown and the House of Lords"—a thought calculated, indeed, to shake the nerves of the most robust of Radicals! The "in scheme," at which Mr. Gladstone was recently supposed to have halted, is dismissed as subjecting England and Scotland, in their internal affairs, including the choice of their Ministers, to a body of Irish politicians holding the balance of power at Westminster while practically independent in Dublin—an arrangement, Mr. Reid justly observes, "unjust to Great Britain, inconvenient as breeding a legitimate resentment, simple enough if it can be maintained, and of a novelty quite startling, because, though Great Britain may have inflicted, she has never hitherto submitted to inequality." Another Gladstonian lawyer, Mr. Asquith, marked out for higher destinies than Mr. Reid, did not recoil from this last arrangement. Mr. Asquith, who is now a member of the Cabinet which is hatching the new Home Rule Bill, was prepared as he told his constituents at Ladybank,† to keep the Irish members at Westminster in their full numbers and for all purposes, stipulating, however, that the present excessive representation of Ireland should be reduced on the principle of "one vote one value," and maintaining that

The "in and out scheme."

The "in scheme."

Mr. Asquith in favour of "one vote one value."

* *Contemporary Review*, April, 1892; pp. 485, 486.

† *Scotsman*, January 11, 1892.

the supremacy of the Imperial Parliament would be thus effectively preserved, since it could not be said of any law passed by that body, even if it applied to the local affairs of Ireland, that it was passed by a body in which they (the Irish) were not represented, and by whose decision they were not to be constitutionally bound.

Indifference of Irish Party explained.

On this last point it is enough to say that it is irreconcilable with the attitude taken up both before and after the Parnellite split by both sections of the Irish Separatists. Neither before nor after the schism did Mr. Parnell, his successors, and his rivals take any keen interest in the question of the retention of the Irish members at Westminster. Their tone has been one of indifference, sometimes cynical and sometimes ironical. They are evidently of opinion that while the original plan implies practical separation and supplies the ground from which to demand the recognition of "Ireland's nationhood," the retention scheme in either of its forms would give a leverage for compelling English parties to make fresh concessions. Mr. Parnell's account of the Hawarden negotiations has been contested by Mr. Gladstone, but it has not been denied that the question of the retention of the Irish members was discussed. It was stated by Mr. Parnell, in the manifesto* he issued after his excommunication by the Gladstonian leaders, and the attempt to depose him in Committee Room No. 15, that while he was indifferent on grounds of principle to the number of the Irish representatives in the Imperial Parliament, he thought it "would be the height of madness for any Irish leader to imitate Grattan's example, and consent to disband the army which had cleared the way to victory," so long as matters of great importance were withdrawn from the Irish Legislature. Mr. Redmond has recently declared that if Mr. Gladstone can solve the difficulty his

Mr. Parnell.

Mr. Redmond.

* *Times*, November 29, 1890.

solution "will be received without any very close scrutiny into its strict logic on our part."* This is quite natural, for it is Englishmen and Scotchmen, not Irishmen, who would have to complain of Mr. Gladstone's deficiency in "strict logic," while Mr. Redmond's tolerant offer is linked with proposals that would reduce Imperial supremacy over the Irish Legislature, and over Irish affairs, to the most impalpable shadow. It is worth while, at the same time, to take note of a pregnant criticism of Mr. Redmond's on the working of the retention scheme in the limited form. "What," he says,* "is the most completely Imperial of all affairs? Surely the existence of the Imperial Government. The Imperial Government will depend for its existence, and all Imperial policy depends for its continuance, upon the support of Parliament. The fate of a Ministry may depend upon the decision of Parliament upon some purely English or Scotch question, as, for example, the question of Disestablishment. Does not this purely British question become an Imperial one, upon which Ireland would be entitled to vote the moment the existence of the Imperial Government depends upon its decision?" It is impossible to give a more striking instance of the bewildering subtleties of distinction which Mr. Gladstone once regarded as "passing the wit of man."

* *Nineteenth Century*, October, 1892, p. 522.

III.—IMPERIAL SUPREMACY—THE VETO.

THE controversy respecting the retention of the Irish members at Westminster has thrown much light upon the questions, discussed in a somewhat academic spirit in 1886, whether under the Bill of that year the supremacy of the Imperial Parliament was maintained notwithstanding the concession of a subordinate Legislature, and whether the Act of Union was in fact repealed. Mr. Gladstone, whose faith in the potency of words and phrases has always transcended his power of discerning realities, seems to have assumed that he could place these points beyond the region of debate by large and emphatic declarations on his own part. He repeatedly reaffirmed his adhesion on the first point to the language he had used in Mid-Lothian some years before, when he said*:—

Mr. Gladstone in 1879.

"Nothing can be done by any wise statesman or right-minded Briton to weaken or compromise the authority of the Imperial Parliament. The Imperial Parliament must be supreme in the three Kingdoms, and nothing that creates a doubt on that supremacy can be tolerated by any intelligent or patriotic mind." On the second point he wrote (Nov., 1890)†:—"The essence of the Union lies in this, that the right of supreme government resides at Westminster." Professor Dicey, supported by the opinion of the most eminent lawyers in both Houses of Parliament, maintains‡ that the Bill of 1886 amounts to a repeal of the Union, not only in substance, but in law, inasmuch

Prof. Dicey on the Bill of 1886.

* *Times*, November 27, 1879.

† *Special Aspects of the Irish Question*, p. 371.

‡ Dicey's *Case against Home Rule*, p. 227; see as to the general constitutional effect of the scheme, pp. 233–249.

as the representation of all parts of the United Kingdom "in one and the same Parliament" would cease to exist; but, of course, if the Irish members were retained, this argument would *pro tanto* fall to the ground. What is material to note is, that Mr. Gladstone treats the maintenance of the supreme authority of the Imperial Parliament, whether the Irish members are excluded or included, as constituting "the essence of the Union."

Lord Thring on the 37th clause.

What, then, is this supremacy? Mr. Gladstone and Mr. Morley point to the reserved power of Parliament to withdraw or modify by legislation any concessions that may have been granted in the same way. Mr. Bryce and Lord Thring have laid stress on the constitutional doctrine, that Parliament can in strict law repeal any of its former Acts, and that in truth the only limitation upon its powers is that it cannot bind its successors. The question, however, is less simple than the mere statement of these propositions would make it out to be. This, indeed, was admitted by the authors of the Bill when they inserted the 37th clause.

> It seemed well (writes Lord Thring, who drafted the Bill himself) that Ireland by her representatives should accept as a satisfactory charter of Irish liberty a document which contained an express submission to Imperial power and a direct acknowledgment of Imperial unity. Similarly with respect to the supremacy of the British Parliament. In the Colonial Constitutions all reference to this supremacy is omitted as being too clear to require notice. In the case of the Irish Home Rule Bill instructions were given to preserve, in express words, the supremacy of the British Parliament, in order to pledge Ireland to an express admission of that supremacy by the same vote which accepted local powers.—(*Contemporary Review*, March, 1887, pp. 314-315.)

Prof. Dicey gives the clause as amended.

Lord Thring has admitted that the 37th clause, as it originally stood, was "doubtful and inaccurate," but has argued that it could, and would, have been amended in committee. Professor Dicey, in the appendix to his "Case against Home Rule," p. 309, thus prints the

amended clause, "as I am informed it ought to have been originally printed," but the difference is scarcely perceptible:—"Save as therein expressly provided, all matters in relation to which it is not competent for the Irish Legislative Body to make or repeal laws shall remain, and be within, the exclusive authority of the Imperial Parliament, whose power and authority in relation thereto, save as aforesaid, shall in nowise be diminished or restrained by anything herein contained." The clause, whether as it originally stood, or as it was to be amended, according to Mr. Dicey, wholly fails to carry out the object avowed by Lord Thring. For, evidently, the saving affects the very point in dispute.

How the clause fails.

The Imperial Parliament expressly renounces the right in any case to use its "supreme authority" for legislating on any questions except those which the Irish Legislature is not competent to deal with. But what of the subjects which the Irish Legislature is competent to deal with? Over these, as the Unionists have all along contended, the reservation in words or by inference of the Imperial supremacy gives no practical means of control, yet when it is objected that those powers may be abused, it is thought by the Gladstonians a sufficient answer to say that the Imperial Parliament is able to intervene. When Sir William Harcourt says* that his party have contended for "the right of the Irish people to manage their own affairs, subject—always subject—to the control of the Imperial Parliament," he is offering what the Irish Separatists of both factions have neither asked for nor accepted, and what, therefore, is, on the principles laid down by Mr. Gladstone and Mr. Morley, quite worthless. It is no wonder that, when Mr. Redmond challenged him in the House of Commons† to state whether or not

Sir William Harcourt's Home Rule.

Mr. Redmond's challenge.

* *Times*, April 18, 1892.

† *Hansard*, 4th Series, vol. 1, pp. 506–508.

"Mr. Parnell's Fenian Home Rule" was implied in the declaration adopted by Parnellites and Anti-Parnellites alike that the Irish Legislature "must be supreme with regard to Irish questions," Mr. Gladstone's lieutenant thought it prudent to leave the House without attempting to define his position. He had before him Mr. Parnell's recent definition of the Irish demand:—"There can be no mistake about it, we want a Parliament with full power to manage the affairs of Ireland, and with no English veto, whether on the appointment of your leader or on the laws you shall make." This statement was what Sir William Harcourt had denounced, a few weeks after it had been made by Mr. Parnell, as "Fenian Home Rule," as a policy "which the Liberal party had never countenanced, and one which they would never support."* Yet, when it was recited and reasserted in the House of Commons by Mr. Redmond, in the debate on the Address in August last, the declaration that it represented "the position of all Irish Nationalists" was not disputed by the Anti-Parnellites. Mr. Justin M'Carthy, in his recent observations on Sir Edward Reed's protest, has stated that there was nothing unreasonable or unfair in Mr. Redmond's demands, and that they were adopted by the Clerical section.

Mr. Parnell's definition of the Irish demand.

Though it has been contended that the Imperial Parliament cannot finally divest itself of legislative power, which it always held in reserve, the renunciation, as Mr. Bryce acknowledged in his speech,† on the second reading of the Bill of 1886, is morally, even if not legally, binding. So, as Mr. Dicey has shown,‡ the Declaratory Act of 1778, renouncing the right to tax the colonies, might be repealed expressly or implicitly by the Imperial Parliament, but its moral obligation is recognized as

Mr. Bryce on Imperial control.

The Declaratory Act of 1778.

* *Times*, April 18, 1892.

† *Hansard*, vol. 305, pp. 1218, 1219.

‡ *Case against Home Rule*, p. 245.

absolute, and to this extent Imperial supremacy has practically ceased to exist. In the clause above quoted the inherent right of the Imperial Parliament to legislate is asserted only with respect to the subjects as to which the Irish Legislature is declared to be not competent to act. This is Mr. Morley's view. It was, he says,* the "plain and undisguised intention" of the framers of the Bill that, with the exceptions enumerated as withdrawn from the Irish Legislature, "the British Parliament should, for the future, not legislate on such Irish affairs as should be delegated to the subordinate Parliament at Dublin." There is nothing in the Bill to show that a reserved power so to legislate was to be exercised "on possible, but very extreme occasions." But whether the legal authority remains or not—and on this point lawyers of high repute, such as Sir Henry James, Lord Selborne, and Professor Dicey, differ from the opinion expressed by Lord Thring and Mr. Bryce—the moral difficulty could not be got over unless the Imperial Parliament were prepared to sacrifice even the semblance of an amicable settlement. Mr. Parnell, it is true, took a different line in the debate on the second reading, acknowledging, as Mr. Morley says,† "with his usual clearness"—and, as we are now in a position to add, with his usual want of candour—the reserved right of Imperial interference in Irish affairs. But the proceedings in Committee Room No. 15 have shown what amount of reliance is to be placed on such assurances.

Mr. Morley's view.

Legal authorities differ.

It is only just to say that neither Mr. Parnell nor his Clericalist rivals have pretended at any time to be content with a subordinate Legislature in Sir William Harcourt's sense. "We assert to-day," said Mr. Parnell,‡ in almost

Irish opinions on a subordinate Legislature.

Mr. Parnell.

* *Nineteenth Century*, February, 1887, p. 303.

† *Nineteenth Century*, February, 1887, p. 305.

‡ *Freeman's Journal*, September 14, 1891.

the latest speech he delivered, "what we asserted in 1885 and the years before it, that no man has a right to fix the boundary of a nation." "We claim," said Mr. Redmond, in August last,* "that Ireland is a nation and has the rights of a nation." Mr. O'Brien, after Mr. Parnell's death, declared† that his party "would never accept any national settlement, any Home Rule settlement, that would not draw the last fangs of landlordism and that would not leave this old Irish race of ours the masters and the landowners within the four seas of holy Ireland." Mr. Dillon, who indignantly denies that he "ever in the course of his life lowered the flag of national independence," has solemnly pledged his word‡ that, if the new Bill "is not satisfactory to the national sentiment of the Irish people, he will be the first man to declare against the Gladstonian party." Mr. T. P. O'Connor has recorded his opinion§ that "any English Liberal who is not ready to say Amen to the demand of Mr. Redmond and his colleagues does not know the realities and the consequences of his own policy." Archbishop Croke, Mr. Dillon's patron, who believes that priests and people have arrived "within strictly measurable distance of what we ultimately aim at, the legislative independence of our country," protests‖ that "a country which is tied to the chariot wheels of another is held of no account, and is not improperly called a province or dependency, and not a self-regulating and independent State."

Mr. Redmond.

Mr. O'Brien.

Mr. Dillon.

Mr. T. P. O'Connor.

Archbishop Croke.

All these declarations, which might be indefinitely multiplied, justify Mr. Redmond in asking, as he has done, both in Parliament and elsewhere, how they are to be reconciled with the views of Sir William Harcourt on

* *Hansard*, 4th Series; vol. 7, p. 164.
† *Freeman's Journal*, December 7, 1891.
‡ *Freeman's Journal*, December 7, 1891.
§ *Freeman's Journal*, April 6, 1892.
‖ *National Press*, May 25, 1891.

Imperial supremacy, or with Mr. Asquith's avowed determination to insist* upon "an Imperial Parliament *whose unquestioned and unquestionable sovereignty over all persons and in all matters, local or Imperial, will remain intact and unimpaired.*" Like Mr. Parnell, Mr. Dillon, and all the rest, Mr. Redmond is willing to make a verbal acknowledgment of Imperial supremacy, but this admission, which Lord Thring, as we have seen, considers it so important to extort from the Irish representatives by the clause he sought to have inserted in the Bill, is qualified by stipulations that reduce it to a nullity. Mr. Redmond, in fact, has bettered Lord Thring's instruction. "The rights (he says) of the Imperial Parliament would remain intact," but they "would remain dormant so far as Irish affairs are concerned." How is this to be effected?

Mr. Asquith's determination.

Mr. Redmond's stipulations.

A Parliamentary compact would be entered into, binding the Imperial Parliament to leave their rights dormant. Such a contract, of course, cannot, in strict theory, bind successive Parliaments, but in practice it must have this effect by imposing, as Mr. Bryce said, "a moral obligation upon Parliament not to act contrary to the statute." We would expect a clause in the Home Rule Bill to specifically provide an undertaking that, *while the Irish Parliament continued in existence, the powers of the Imperial Parliament to legislate for Ireland would never be used.* So that in point of actual fact it comes to this, that, while we do not deny that the Imperial Parliament, which has now the power to create an Irish Legislature, would retain the power in strict constitutional theory to take it away again, we would require a formal compact to the effect that, while that Legislature lasted, it should be permitted to exercise free and unfettered control over the affairs committed to its charge.—(*Nineteenth Century*, October, 1892, pp. 515-516.)

This position, it will be seen, is precisely that which has been taken up also by the Anti-Parnellite leaders, and Mr. Redmond's definition of it has never been challenged, contradicted, or even criticized, in or out of Parliament, by the Gladstonian-Clerical Nationalists. It must be observed that Mr. Redmond has accepted Mr. Bryce's

Mr. Gladstone's exaggerated language.

* Letter to his constituents, *Scotsman*, July 10, 1889.

argument for Imperial supremacy for his present purpose, but it can be turned to other purposes. Mr. Gladstone, unfortunately, by the exaggerated language he has employed about Irish nationality and independence before the Act of Union, has placed it in the power of the Nationalists to say that the Irish Parliament also possessed a supremacy within its own sphere which it could not extinguish by any compact binding upon future generations. Thus, whatever stipulations were now accepted on either side could be repudiated, on Mr. Gladstone's principles, by the Irish Legislature as well as by the Imperial Parliament, on the ground of inherent and inalienable right.

The veto as explained by Mr. Gladstone.

Beside the general argument from the reserved power of the Imperial supremacy, Mr. Gladstone and his followers rely on the specific safeguard of the veto to be vested in the Lord Lieutenant. The Gladstonians appeal to the colonial analogy, though they propose to place Ireland in a position which none of the self-governing colonies would have consented to occupy for half-a-year. Mr. Gladstone has laid it down* that, under the Home Rule Constitution, "the Crown would appoint the Lord Lieutenant, and the appointment of the Lord Lieutenant, who must be the head of the Irish Executive, would effectually reserve to the British Crown, and through the British Crown to the British Ministers, and through the British Ministers to the British Parliament, the power of interfering." Mr. Redmond's answer to language of this sort is straightforward enough. He says† :—

Mr. Redmond's answer.

> A power which in the case of the colonies is harmless, because a dead letter, would in the case of Ireland be a reality and a perpetual source of humiliation, of heartburning, and of danger. We therefore say a formal compact must be entered into that, while the Irish

* Speech at Nottingham, *Times*, October 19, 1887.

† *Nineteenth Century*, October, 1892, p. 517.

Parliament lasts, it will be permitted sole and unfettered authority in all purely Irish affairs, free from interference by the Imperial Parliament, and subject only to the constitutional veto of the Crown.

He censures Mr. Oscar Browning, who during the last general election repeated, "with deliberation and confidence," the statements of his chiefs, including Mr. Gladstone himself and Mr. Morley, that the veto of the Crown exercised by the Lord Lieutenant would be "in accordance with the advice of the Sovereign's British Ministers." If this were the case, Home Rule, Mr. Redmond asserts,* "would be reduced to a humiliating farce; it would be the re-enactment of Poyning's law in a more objectionable and offensive form than it existed in before the settlement of 1782. . . . Irish Ministers would be powerless, the Irish Executive would be beneath contempt, without power, authority, or respect." In local affairs and in dealing with all subjects except those expressly reserved for the Imperial Parliament, the Irish Legislature, according to Mr. Redmond, must be subject only to the veto of the Viceroy acting on the advice of his Irish Ministers, themselves the creatures of that Legislature. He appeals on this point to the testimony of Sir Charles Russell, Mr. Gladstone's Attorney-General, and of Lord Thring, the draftsman of the Home Rule Bill. The former, in the debate on the second reading, said:— "With regard to the veto to be exercised by the Lord Lieutenant, it is true that it is to be exercised constitutionally by the Lord Lieutenant on the advice of his Irish Ministers."† Lord Thring is equally decided on this point, though he is careful to draw the proper distinction between local and Imperial matters. He says:—

Sir C. Russell on the veto.

Lord Thring.

The Governor is an Imperial officer, and will be bound to watch over Imperial interests with a jealous scrutiny, and to veto any Bill

* *Nineteenth Century*, October, 1892, p. 517.

† *Hansard*, vol. 306, p. 59.

which may be injurious to those interests. On the other hand, *as respects all local matters, he will act on and be guided by the advice of the Irish Executive Council.* The system is self-acting. The Governor, for local purposes, must have a Council which is in harmony with the Legislative body. If the Governor and a Council, supported by the Legislative body, do not agree, the Governor must give way, unless he can, by dismissing his Council and dissolving the Legislative body, obtain both a Council and a Legislative body which will support his views.—(*Contemporary Review*, August, 1887, p. 163.)

Mr. Gladstone

But this, as we have seen, is not the reading of the Bill adopted—at least, on all occasions—by Mr. Gladstone and Mr. Morley. The plan of 1886, according to Mr. Gladstone, "gave to the Crown the veto on all Bills passed by the statutory Parliament of Ireland. It did not contain any provision that this veto should be exercised under the advice of the Irish Executive. It was, we have to remember, a veto upon Bills within the statutory powers, Bills exclusively Irish (*Nineteenth Century*, February, 1887, p. 170).*

Mr. Morley.

Mr. Morley was not less explicit. "There is, however (he says), the veto of the Lord Lieutenant, and this, as anyone may see, really means, in the ultimate resort, an indirect faculty of veto residing in the British House of Commons."† This extraordinary discrepancy has never yet been explained. It is necessary to sift and collate Mr. Gladstone's *ambiguas voces* to arrive even at a conjectural estimate of his meaning. Probably the governing factor is the admission in his speech on bringing in the Home Rule Bill‡ that "the principle of responsible government will work itself out in every necessary detail." That principle the Gladstonians profess to concede fully to Ireland. What will it leave standing of the pretentious theory of Imperial supremacy over Irish affairs, or of the veto of

* [On May 26, 1892, he wrote that Mr. Oscar Browning's interpretation was right and that "the opposite contention was absurd."]

† *Nineteenth Century*, February, 1887, p. 306.

‡ *Hansard*, vol. 304, p. 1069.

the Crown which Mr. Gladstone parades as a security against abuses and oppression?

How responsible government would work itself out.

The supremacy of the Imperial Parliament and the veto of the Crown are equally reduced, on Mr. Redmond's principles, to a nullity. The former is never to be applied to control Irish handling of "local affairs," though under that head a Legislature in Dublin may alter the Civil and Criminal law and procedure of the country from top to bottom, may confiscate the property of individuals, and may render life intolerable to those classes against whom the dominant majority or its spokesmen have threatened vengeance. The Imperial Parliament is only to retain power to insist on the surrender of the Home Rule Constitution—a "war measure" which would be practically at the disposal of Great Britain, even if actual separation were granted. The Lord Lieutenant's right to reject measures passed by the Legislature, if to be exercised only on the advice of his Ministers in Dublin, would necessarily fall into abeyance, as the veto of the Crown has fallen into abeyance in this country since the days of Queen Anne. Responsible government working itself out, as Mr. Gladstone contemplates, through an Irish Legislature supporting an Irish Executive, would realize Mr. Parnell's ideal of an Irish Constitution, "free from all outside interference, free from any English or Imperial veto, free from the control of any Englishman or English Minister."

IV.—FINALITY.

Negotiations between Mr. Gladstone and Mr Parnell.

WHEN Mr. Parnell's downfall in the Divorce Court produced the revolt of the Nonconformist conscience, and, by a curious coincidence, the establishment of clerical ascendancy in Ireland, the questions we have been considering dropped for the time out of sight. It was not denied that Mr. Parnell had been carrying on negotiations with Mr. Gladstone in regard to the remodelling of the Bill of 1886, and, though the account given by the former of what passed between him and the Gladstonian leader was disputed by the latter, the fact remained that on neither side was the compact entered into on the introduction of the original measure regarded as binding. Not only Mr. Parnell, but Mr. Healy and the whole body of the Anti-Parnellites, rejected emphatically the modified Bill which was described as Mr. Gladstone's latest offer, though it is difficult to see how it differed materially, except in one or two points of secondary importance, from the plan that had been ostensibly accepted in 1886. With regard to the retention of the Irish members at Westminster, Mr. Parnell's demand was that their numbers should not be reduced so long as any temporary and provisional restrictions of the powers of the Irish Legislature were maintained. The suggestion that, for a time, the appointments to the judiciary and the magistracy should be made by the Imperial Government was a slight extension of the provision securing to the existing Judges who were to continue in office an Imperial guarantee, while the control of the constabulary was already reserved to the Lord Lieutenant. In the Bill of 1886 the Irish Legislature

Retention of Irish Members.

The Judiciary.

was not prohibited from dealing with the land question; but Mr. Gladstone had proposed to remove the principal difficulties—especially the danger strongly insisted upon by Mr. Morley and Lord Spencer, that the landlords would be expropriated and despoiled if they were left to the mercy of an Assembly elected by the masses—by his measure of land purchase. That, however, was abandoned, or if any scheme of the kind was to be reintroduced it was understood that the Gladstonians would not be put under any party pressure to vote for it. Mr. Parnell's forecast of the new Gladstonian plan of Home Rule may have been incorrect in some particulars, but it was only brought forward as an excuse for a general repudiation of responsibility for the compact of 1886; and it is significant to observe that Mr. Parnell's opponents were as eager as their deserted leader to declare that they had never assented to that compact except in a Pickwickian sense. Both Mr. Parnell and Mr. Healy told the story of the acceptance of the Bill of 1886 in Committee Room No. 15.* When the terms of that measure were disclosed to the Nationalist leaders there was a disposition to reject them, and especially to insist on demanding control of the Customs. Mr. Parnell pointed out that, in such an event, there would be another Cabinet crisis (Mr. Chamberlain and Mr. Trevelyan had just resigned), and that Mr. Gladstone's Government would collapse. The Bill, Mr. Parnell said, is "a Parliament hit and nothing more." . . . "Will you take or will you leave it?" On this the representatives of the Irish party consented "to accept it *pro tanto*," in order, as Mr. Healy has frankly stated, "to conciliate English opinion."

The Land Question.

The Irish Members and the Bill of 1886.

But if "English opinion" had allowed the Bill to pass the second reading on any minimizing pretences, would the Irish party have considered themselves bound by their

The questions sent to Mr. Gladstone from Committee Room No. 15.

* *Times*, December 5, 1890.

acceptance? Mr. Parnell was prepared to oppose the financial clauses of the Bill in Committee with the support of all his followers. The delegates appointed by Parnellites and Anti-Parnellites in Committee Room No. 15 presented an *ultimatum* to Mr. Gladstone demanding a material change in the clause regulating the future of the constabulary, and insisting that at the end of two years that force should be handed over absolutely to the Irish Executive. There is no reason to believe that any other part of the scheme of 1886 would have been treated as anything more than a provisional arrangement to be repudiated by the Irish whenever they pleased, though it was to be binding for all time on the Imperial Parliament.

Never answered.

Mr. Gladstone has never yet given an explicit answer to the questions put by the delegates of the Irish Parliamentary party, which he evaded in 1890 on the excuse that he would not mix them up with the controversy about the leadership. Yet the warning given to him in Committee Room No. 15, in case he was unwilling to go the whole way to meet the Irish demand, was plain enough. "You all admit," said Mr. Parnell—"and this is the misery of it—we are all agreed that you will not have this Bill. . . . There has not been a man to say a word in favour of this Bill."* These statements were loudly cheered. Neither at the time nor afterwards were they contested by Mr. Parnell's opponents. Mr. Healy declared on the same occasion that "the Home Rule Bill outlined in Mr. Parnell's manifesto is not one the Irish people could accept," and, accordingly, he "pledged himself to accept no such measure. Twelve months later he said†: "One tittle less than was accepted in 1886 from Mr. Gladstone we will not accept, and we

Mr. Healy would "accept no such measure."

* *Times*, December 5, 1890.

† *Freeman's Journal*, December 29, 1891.

will take as much more as we can get." Such was the measure of the "acceptance *pro tanto*" of Mr. Gladstone's Bill. The Irish party was to be allowed to insist on altering the essential conditions of the pact, while if the Gladstonians ventured to suggest any amendments they were to be branded with bad faith. Yet Mr. Gladstone continues to persuade himself that this form of provisional acquiescence satisfies the conditions of reality, permanence, and finality, which he has himself repeatedly laid down. By a very curious coincidence, Mr. Gladstone and Mr. Parnell both spoke on this subject on St. Patrick's Day, 1891. Mr. Gladstone repeated his confident statement that "when the policy (of the Home Rule Bill) was announced by the Government of 1886, it was frankly and unanimously and patriotically adopted by the Irish Nationalist party."* But at the very same time Mr. Parnell was telling a very different story to his constituents in Cork. "Although," he said, "I praised him (Mr. Gladstone), I never entirely trusted him. I hoped undoubtedly, that he would have been able, *by degrees*, to have given us a solution of the national question which we could have accepted, under which our people would have had full powers over their own destinies, and which would have enabled us to be a prosperous and free and happy Irish nation. That was the point to which I was encouraging him."† Again, some three months later, he said: "They could not prevent the Irish people from obtaining self-government. It was merely a question of time and degree. His opinion was, and it had been his opinion for the last ten years, that it would come soon, but that *it would not be a complete measure of freedom.* That would come by degrees."‡ Nevertheless, in his

Mr. Gladstone's opinion of the attitude of the Irish Members.

Mr. Parnell told a different story.

* *Times*, March 18, 1891.

† *Freeman's Journal*, March 18, 1891.

‡ Speech at Balbriggan, June 21, 1891.

Mr. Gladstone reiterates his opinion.

recent article in the *North American Review*, Mr. Gladstone reiterates his expressions of confidence:—

> It appears to be thought that Irish Nationalists go a-roaring after power like lions after their prey. But Mr. Parnell himself proposed that the British Parliament should retain in its own hands exclusively for a certain time the power of legislating on the critical question of land; and all the Nationalists in 1886 with readiness concurred in a proposal which absolutely debarred the local Parliament of Ireland from constructing a Church establishment. For these instances of moderation they never receive a word of credit.—(*North American Review*, October, 1892, p. 391.)

And again:—

> Ireland generously agrees to undergo every restraint which is imposed upon the autonomous colonies, and many other restraints. The colonies retain legislation upon trade; they deal with the question of their own defence; they contribute nothing to our charges. Ireland willingly abandons all these powers and consents to bear her equal share of Imperial burdens.—(*North American Review*, October, 1892, p. 393.)

Mr. Morley is less sanguine.

Can wilful blindness go further? Mr. Morley, indeed, is less sanguine. He appreciates the force of Mr. Davitt's remark, that the Bill of 1886 was no more to be accepted as a final settlement of the Irish demand than the fact of a man's having eaten his breakfast is to be taken as a reason for his having no dinner. "The talk about finality," Mr. Morley wrote,* not long after the defeat of the Home Rule party, "rests on an illusion of perfection and immutability"; "all government is an affair of second-best." If it is possible to get rid of the presence of the Irish members at Westminster, it is not possible to get rid of the pressure of the Irish difficulty. Whatever concessions we make we may have to go further and still further by-and-by. "It is enough (in Mr. Morley's opinion) if the statesman can see his way clear to the next step." Whether it is, or ought to be, enough for the people whom the statesman

* *Nineteenth Century*, February, 1887, p. 314.

is leading by the nose with positive assurances that he has an infallible "pill to cure the earthquake," is not quite so obvious to persons less philosophic than Mr. Morley.

Mr. Dicey's explanation of Mr. Gladstone's scheme.

Be that as it may, Mr. Gladstone might have discovered by this time, if not earlier, the meaning of that pregnant "*pro tanto*." No one has done more than he during the past seven years to puff up the Separatist part of Ireland with vain ideas of nationality. If "Ireland" can claim the position he concedes to her, if she was and is a "nation" with a Parliament independent and coequal, of which she was wrongfully deprived, she would have reason to complain of being placed in the position either of a State of the American Union or of a self-governing British colony. But, as Professor Dicey has conclusively shown, Ireland's position under the Home Rule Constitution would be radically different from, and immeasurably inferior to, that of the Colony of Victoria or to that of the State of Massachusetts. Mr. Gladstone's plan, says Professor Dicey,* is "an artificial combination of Federalism and Colonialism. Its aim is to secure the advantages of two opposite systems; its result is to combine and intensify the disadvantages of both systems. It inevitably tends towards the dissolution of the United Kingdom into a Federation; it immediately disturbs the bases of the Constitution by creating an artificial bond of something like a Federal Legislature between England and Ireland; it introduces into the relations between each of the different divisions of the United Kingdom elements of conflict which are all but inherent in Federalism; it requires that absolute deference for the judicial decisions of a Federal Court which, if it exist anywhere, can exist only among a people, like the Americans, imbued with legal

* *Case against Home Rule*, pp. 276, 277.

notions, and, as it were, born with innate respect for law. That this sentiment cannot exist in Ireland is certain; whether it exist in the required intensity even in England is problematical. The Gladstonian Constitution, again, because it contains some institutions borrowed from the colonial system without the conditions requisite for them, so to speak, falsifies them. The Imperial supremacy of Great Britain, the Imperial control over the Army, the occasional interference with the Irish Executive, and the veto of the Crown on Irish legislation are, each and all of them, under the Gladstonian Constitution, certain to be the source of justifiable dissatisfaction." Professor Dicey's criticism was written before the controversies to which we have referred on the questions of the retention of the Irish members, of the Imperial supremacy, and of the veto, as well as before the fall of Mr. Parnell and the debates in Committee Room No. 15. All that has happened in the last six years goes to strengthen his argument.

Mr. Parnell protested against the financial arrangements.

Take the question, for example, of the "tribute," as it has been called. Mr. Parnell had protested on the introduction of the Bill against the excessive contribution demanded from Ireland, and against the machinery for capturing all Irish taxation in the office of the Receiver-General in order to realize the first charge upon it for the Imperial Government. Neither his adherents nor his opponents have ever expressed a different view. Mr. Redmond, writing not long ago in a strain of studied moderation, said*:—"It is an opinion generally entertained in Ireland that that country was weighted under the Bill of 1886 with a greater financial burden than she ought to be asked, or was able, to bear." In the debate on the Address, in August, 1892, he stated in the House of Commons that "the financial portion of the scheme was never accepted by Mr. Parnell, who always made a reser-

Mr. Redmond protests still.

* *Nineteenth Century*, October, 1892, p. 521.

vation to the effect that he would endeavour in Committee to deal with and amend it"; and he added a strong expression of his own view that these arrangements "would probably, if passed into law, have resulted in the bankruptcy of the country before many years had elapsed."* On this point there has been no dissent on the part of the Anti-Parnellites from the statements of Mr. Redmond, which Mr. Justin M'Carthy has recently adopted *en bloc* as reasonable and just. "We are all united (wrote Mr. William O'Brien† a few months ago) in demanding that the Irish Parliament shall be as free from outside meddling as the Parliaments of Australia and Canada—that is to say, practically as free as air," and the Irish, taking the measure of Mr. Gladstone's assurance that the rightful position of Ireland is analogous to that of the great self-governing colonies, are not slow to remember that this Colonial Constitutionalism implies that the colonists are "free as air" from any obligation to contribute to the Imperial Exchequer.

Mr. M'Carthy agrees with Mr. Redmond.

Mr. William O'Brien's demand to be "as free as air."

These objections have been reinforced by the admissions of some English statesmen. Mr. Morley has given his opinion‡ that "the amount of the Irish contribution was probably an over-estimate and needs revision"—a damaging acknowledgment of the carelessness with which, both in form and in substance, this vaunted message of peace was vamped up. What Mr. Morley thinks an "over-estimate," Mr. Gladstone paraded, when he brought in his Bill, "as an equitable and even a generous arrangement," though, as Sir George Trevelyan at the time pointed out, there is no example in Europe of a nation with a separate Parliament and a separate Executive which paid over a predominant part of its revenue to another nation.

Mr. Morley thought Irish contribution "an over estimate."

Mr. Gladstone thought it "generous."

* *Hansard*, 4th Series, vol. 7, pp. 174, 175.
† *Freeman's Journal*, January 30, 1892.
‡ *Nineteenth Century*, February, 1887, p. 312.

We cannot be surprised at Mr. Davitt's complaint that the Irish Nationalists had surrendered too easily to Mr. Gladstone. We have no right to assume that Mr. Davitt and Mr. Dillon, any more than Mr. Parnell, would or could bind the rest of the "Irish people" to accept an "instalment" as payment in full. It is the grossest delusion to suppose that since the introduction of the Bill of 1886 the Irish Nationalist demands have been in any degree lowered, though they were abated for the time being, as Mr. Healy has told us, "to conciliate English opinion." Mr. Justin M'Carthy, the mildest of men, says, valiantly: "We stand for Ireland a nation; that is our purpose in public and political life."* Mr. Dillon says: "I have never hesitated to express my admiration for the men of '67" (the Fenians), "and I declare that our movement is, in all its main principles and the great issues upon which it aims, the legitimate successor of that movement."† In Archbishop Croke's view, Home Rule must not be regarded as a mere domestic or provincial system: "Besides being comfortable at home, we should have ambition to be respected abroad."‡ Mr. O'Brien has boasted that "the Irish party will never barter their independence as the ambassadors of an Irish nation." Mr. Davitt avowed before the Special Commission§ that his agrarian policy was intended to be "a stepping stone to complete national independence," adding, as he stood in the witness-box, "I wish to God I could get it to-morrow!" All these declarations have been publicly made since the alliance with the Gladstonians and the introduction of the Home Rule Bill. Is it necessary for Sir William Harcourt to look for "Fenian Home Rule" exclusively in the Parnellite camp?

Mr. Justin M'Carthy for "Ireland a nation."

Archbishop Croke's view.

Mr. O'Brien's boast.

Mr. Davitt before the Special Commission.

* *Freeman's Journal*, March 18, 1891.

† *Freeman's Journal*, December 9, 1888.

‡ *National Press*, May 25, 1891.

§ *Report of the Special Commission*, p. 30.

From the Irish Nationalist point of view there is much to be said for Mr. Redmond's protest against a repetition of what took place in 1886. The Irish Nationalist members, according to Mr. Redmond,* recoil from the danger of "being forced either to accept this cut and dried scheme, in all its main features, as it is proposed, or else to take the enormous responsibility of rejecting it and driving the Government of the day from power." It was this sort of pressure, as we know from Mr. Parnell's and Mr. Healy's testimony, which brought about the acceptance *pro tanto* of the Bill of 1886. It may be applied as effectually again. But no intelligent Englishman or Scotchman will believe that an adhesion thus extorted will be held to be binding for an hour longer than is convenient to the weaker party and agreeable to those on whose support they rely.

Mr. Patrick Ford on "finalities."

A year and a-half after the defeat of the Home Rule Bill Mr. Patrick Ford, of the *Irish World*, Mr. Davitt's "Christian and philanthropist," the apostle of the dynamite gospel, through whose hands so much American money flowed into the coffers of the League for various purposes, Parliamentary and other, placed on record his estimate of the Gladstonian policy:—

> This talk about finalities (the *Irish World* wrote, on November 12, 1887) is the more foolish as the past history of the Irish question shows it to be futile. . . . There is no finality except justice, and Mr. Gladstone's Home Rule plan is but a small instalment of Justice to Ireland. . . . It is a proposal to give them (the Irish) a Parliament which shall have not a tithe of the power of that which they were robbed of, and to keep this Parliament permanently under the step-motherly oversight of England.

After denouncing the limitations of the original Bill, this candid critic went on to say that the rumoured retention of the Irish members would "retard, obscure,

* *Hansard*, 4th Series, vol. 7. p. 170.

and complicate the struggle for Ireland's rights as a nation." But, he concluded:—

> Neither Ireland nor her representatives have passed (*sic*) upon the plan of Home Rule which Mr. Gladstone and the Liberals offer now. If they accept it, it will show how little they expect from English justice, even as represented by Mr. Gladstone. If they accept it, we may all derive comfort from the fact that it is not a finality, and cannot be so.*

Mr. Cecil Rhodes on the Bill of 1886.

A sympathizer with Home Rule of a very different type, Mr. Cecil Rhodes, is said to have explained to Mr. Gladstone the grounds of his disapproval of the Bill of 1886, which he maintained must inevitably lead to separation by placing Ireland in the position of a "taxed Republic," having no control over the appropriation of the tribute she was bound to pay. The argument is irresistible, but how many British Home Rulers are prepared to escape from it by placing Ireland in the position of an "untaxed Republic"?

* These remarks appear in Mr. Ford's editorial columns, but are signed by one of his contributors. They are in complete accord, however, with his own comments on the Bill of 1886 and the Gladstonian alliance. See the *Irish World*, May 8, 1886.

V.—THE UNIONIST POSITION.

Is there anything in the present position of the Home Rule question which ought to make Unionists more willing to listen to Mr. Gladstone's proposals, not to speak of compromising with them or surrendering to them, than they were in 1886? So far from this being the case, every argument that was used on the Unionist side half-a-dozen years ago has been fortified by the examination of Mr. Gladstone's modifications and concessions, by the revelation of the character of Irish agitation and Irish agitators, and by the utter destruction of any hope of attaining finality even through the most humiliating surrender. The dangers of setting up in Ireland a separate Legislature and a separate Executive have certainly not been lessened by the changes in the policy of 1886 which Mr. Gladstone has either expressly announced or broadly hinted at. Whether the Irish members are retained at Westminster or not, Home Rule involves constitutional difficulties that can only be evaded by conceding to Ireland complete and unqualified independence, or by recasting on federal principles the whole of the political institutions of the Empire, *periculosæ plenum opus aleæ*. For neither alternative is Mr. Gladstone prepared, and the mass of his followers have no compass to guide them when their leader is himself at fault. The inherent supremacy vested in the Imperial Parliament and the right of veto reserved to the Lord Lieutenant, on which so much stress was laid when the Bill of 1886 was brought in, are nominally accepted by the Irish representatives,

Home Rule involves independence or federation.

but are practically reduced to the merest shadow of what Mr. Gladstone originally explained them to be.

The safeguards.

Furthermore, in 1886, Mr. Gladstone deemed it necessary to introduce a number of safeguards, some of them flagrantly at variance with constitutional and economical principles, which, as the Unionists contended, amounted to an admission on his part that, in the development of a policy ostentatiously founded on unqualified confidence in the Irish people, he could trust neither an Irish Legislature nor Irish Ministers. That admission remains on record, in spite of Mr. Gladstone's willingness to give up now the securities he regarded as indispensable six years ago. But why should Unionists, who looked upon the original safeguards as illusory, be more contented because they are to be abolished or watered down? Mr. Morley, who considered that a condition precedent of any form of Home Rule was some treatment of the Irish land question that would prevent the tenants from robbing their landlords,* must acquiesce in his chief's severance of the "twinship" between the two Bills of 1886, between the "message of peace" and the "obligation of honour and good faith."

Mr. Morley on the Land Purchase Bill.

This change has certainly not improved Mr. Gladstone's scheme from the point of view of simple justice, for it may be safely assumed that, if Mr. Gladstone did not consider it scandalously and perilously unjust not to rescue the landlords from the confiscation his statutory Parliament had in store for them, he would never have committed himself to the Land Purchase Bill. Though some of the other safeguards, such as the "two orders" in the Legislature, with a high property qualification for the first and arrangements for securing the representation of minorities, have not been as cynically thrown overboard as the Land Purchase Bill, the Gladstonians generally have been chary

The "two orders."

* Speech at Chelmsford *Times*, January 8, 1886.

of mentioning them, and some have openly spoken of them with disparagement as opposed to democratic ideas. It is probable that Mr. Gladstone will be compelled to abrogate wholly or in part the restrictions he placed originally on the power of the Irish Legislature over the judiciary, the magistracy, and the police, for he and Sir William Harcourt (who abhors "Fenian Home Rule") have declared* that it would be useless to attempt to carry any measure which has not the "cordial concurrence and support" of the Irish representatives. Both Parnellites and Anti-Parnellites, agreeing in this, however they may differ on other questions, demand the Bill of 1886 as their "irreducible *minimum*," with such further concessions as they have been already able, or hope hereafter, to screw out of Mr. Gladstone.

The other restrictions.

From the Unionist standpoint, it is hardly conceivable that any measure should be presented to Parliament in the coming Session which, after all Mr. Gladstone has said and done since his former defeat, would not be worse than the policy emphatically rejected by the nation six years ago. At the last general election there was a majority against Home Rule in Great Britain, but many of Mr. Gladstone's English and Scotch followers were sent to Parliament on the idle assumption that Home Rule was mainly, as Mr. Maden put it in the Rossendale Division, the control of gas, water, and electricity. Mr. Gladstone must lose some support—he can hardly, in his most sanguine mood, expect to gain any—by drawing his policy, as he must do when he meets Parliament, out of the convenient half-light in which it has been studiously kept since 1886. In addition to this, we have had a great deal of light thrown during the past six years on the parallel cases that were appealed to in 1886 as proving the magical healing virtues of Home Rule. We need not

Parallel cases appealed to in 1886.

* *Times*, December 8, 1890.

dwell upon this point, but we may state briefly that in almost every one, if not every one, of the countries which were alleged to have secured abiding peace and contentment by the adoption of the Home Rule principle there have been ominous conflicts and apprehensions of conflict. The relations between Austria and Hungary as coequal members of the Dual Monarchy, between Austria and Bohemia, between Hungary and Croatia, between Russia and Finland, between Denmark and Iceland, between Sweden and Norway, are far from exhibiting the tranquillity and finality which the Gladstonians imagine that they can produce in Ireland by conceding "a small instalment of justice," as Mr. Ford calls it, to a community saturated with lawless doctrines, taught by agitators to hate England, and accustomed to repudiate obligations and promises. Norway, for instance, sharing the desire of Archbishop Croke for international as well as national recognition, regards her complete local independence as nothing unless she is allowed to have her separate dealings with foreign nations. As for the United States, the Duke of Argyll has proved that the idea of "Ireland a nation," which Mr. Gladstone has done his best to inflate and inflame, is precisely that which, when asserted on behalf of the seceding States of the South, brought about the greatest war of modern times. It was upon the overthrow of the States which claimed the rights of nations by those which fought to maintain the Union that the claim was finally abandoned.

The Duke of Argyll's parallel.

In 1886 Mr. Gladstone confidently asserted that the adoption of the Home Rule policy by a great English party had changed the character of Irish agitation and had reduced the Irish demands to the limits of reason. But it has already been shown that the language of the Irish leaders was precisely the same after the introduction of the Home Rule Bill that it had been before; that

The Irish demand the same since 1886 as before.

"national independence" was still proclaimed as the end in view; that the pretension of setting bounds by any Parliamentary compact to the national aspirations of Ireland was again and again disavowed; and that Mr. Gladstone's Irish allies by no means confined themselves, as he had promised on their behalf, to the employment of lawful and constitutional methods. Meanwhile, it had become equally plain that the Gladstonians were prepared to place a very indulgent construction upon the acts and the speeches of their confederates. The Plan of Campaign, which was set on foot as part of the avowed scheme for making the Government of Ireland by the Unionists impossible, was condemned by Judges of unquestioned impartiality and authority, like Chief Baron Palles, as an illegal and criminal conspiracy to defraud the landlords; it was gravely censured in the Pope's circular to the bishops as dishonest and sinful; it was, at the outset, repudiated by Gladstonian politicians and journalists in England, one of Mr. Gladstone's organs* declaring it to be "vitiated with dishonesty," and affirming that "to withhold just rents because exorbitant demands are made is to take trouble to be in the wrong."

The Plan of Campaign

Yet Mr. Morley patronized the iniquitous attempt to defraud Mr. Smith-Barry of his admittedly just rents in Tipperary; and, since his party have returned to power, has been endeavouring to concoct some means by which the persons evicted for taking part in these measures vitiated with dishonesty may be restored, by favour of the State, to their holdings. While the Plan of Campaign was in progress, Mr. Gladstone took the opportunity of praising the Irish agitators for their "conspicuous moderation" and of expressing his belief that "all ground of suspicion for a desire to destroy the landed property of Ireland has disappeared."† Unionists, contrasting this

patronised by Mr. Morley.

* *Daily News*, December 6, 1886. † *Times*, October 21, 1887.

blind faith with the language and conduct of Mr. Dillon, Mr. Davitt, and the rest, were not able to attach the slightest importance to the soothing assurances that had accompanied the Bill of 1886, and have since been repeated by rote. They saw that the Irish Separatists were simply pursuing the policy of reconquering Ireland for the Celtic race through an agrarian agitation that had been sketched out forty years before by Fintan Lalor. Mr. Dillon, the apostle of the plan, denounced "the hated garrison that England has set in this country" as "the real barrier between Ireland and her liberty,"* and prophesied that, at the same hour with the disappearance of the landlords the power of foreign government would disappear also, and then "their old nation and race would become free and independent again." Mr. O'Brien called upon his countrymen to "March on, shoulder to shoulder, until we shall have liberated this land from the twin curses of landlordism and English rule."† Mr. Davitt, who boasted that he had registered a vow "to bear towards England and England's Government all the accumulated hatred of his Irish nation," pledged himself to "carry on this fight at any cost until landlord tyranny and English Government are destroyed in Ireland."‡ These speeches, and hundreds more in the same strain, were delivered long after that alliance which the Gladstonians call the "Union of Hearts," and also long after the close of that chapter of Irish history which formed the subject of the "charges and allegations" inquired into by the Special Commission.

Fintan Lalor's policy.

Mr. Dillon's goal.

Mr. O'Brien's,

Mr. Davitt's,

and the "Union of Hearts."

The results of that inquiry were of great importance to Unionists. It had been possible before the Commission was appointed to dismiss the charges of disloyalty and lawlessness against the League and its Parliamentary

Results of the Special Commission.

* *Freeman's Journal*, October 18, 1886.

† *Freeman's Journal*, December 6, 1886.

‡ *Freeman's Journal*, June 3, 1887.

spokesmen as inventions of the enemy, though, as Mr. Bright once said, "the facts were their own facts." But this evasion was no longer possible when Sir James Hannen and his colleagues, after the most careful investigation, found* that Mr. Dillon, Mr. O'Brien, Mr. Davitt, and others "established and joined in the Land League organization with the intention by its means to bring about the absolute independence of Ireland as a separate nation"; that Mr. Parnell and more than three-fourths of the Parliamentary party, including the above-mentioned, as well as Mr. Sexton, Mr. Redmond, Mr. T. P. O'Connor, and, in fact, every well-known name, entered into a "criminal conspiracy," having for one of its objects "by a system of coercion and intimidation to promote an agrarian agitation against the payment of agricultural rents for the purpose of impoverishing and expelling from the country the Irish landlords, who were styled the English garrison";† that they "did not denounce the system of intimidation which led to crime and outrage, but persisted in it with knowledge of its effect"; and that they "invited and obtained the assistance and co-operation of the physical force party in America, including the Clan-na-Gael, and, in order to obtain that assistance, abstained from repudiating or condemning the action of that party."‡ The politicians against whom the Special Commission found these charges to be proved would now be in control of the Irish Executive Government and dominant in the Irish Legislature, if the Unionists had not successfully resisted Mr. Gladstone's policy in 1886.

Mr. Dillon's threat.

What use would they have made of their power? Mr. Dillon has given us some information on this subject from time to time. "When we come out of the struggle,"

* *Report of the Special Commission*, pp. 31, 32.

† *Report of the Special Commission*, pp. 53, 54.

‡ *Report of the Special Commission*, p. 120.

he said,* about six months after the rejection of Mr. Gladstone's Bill, "we will remember who were the people's friends and who were the people's enemies, and will deal out our reward to one and our punishment to the other."

The so-called political prisoners.

Again, only a year ago, he said†:—"I am perfectly convinced that when the Home Rule Bill is brought forward no Irishman will be detained in an English gaol for political offences"—much less, of course, in an Irish gaol; and it must be remembered that both sections of the Irish Separatists now regard both dynamiters, and conspirators such as those concerned in the Phœnix Park, Barbavilla, and Crossmaglen murder plots, as merely "political offenders." Mr. Ford, of the *Irish World*, reminds his friends in Ireland that the "dynamiters," who used to be disparagingly referred to by Irish politicians desirous of getting a character for respectability, "include those who would have Ireland a self-governing and prosperous nation—which means all honest Irishmen—and who would justify the employment to that end of means such as the American colonies used in wresting their independence from England."‡ But the most striking indication of the

Objects of the Clan-na-Gael.

practical outcome of Home Rule was given in the Clan-na-Gael circular, which was presented in evidence before the Special Commission, and reprinted in the report. "While our objects," this interesting document runs,§ "lie far beyond what may be obtained by agitation, a National Parliament is an object which we are bound to attain by any means offered. The achievement of a National Parliament gives us a footing on Irish soil. It gives us the agencies and instrumentalities of a government *de facto* at the very commencement of the Irish

* *Freeman's Journal*, December 6, 1886.
† *National Press*, October 7, 1891.
‡ *Irish World*, April 17, 1886.
§ *Report of the Special Commission*, p. 116.

struggle. It places the Government in the hands of our friends and brothers. It removes the Castle ring, and gives us what we may well express as the plant of an armed revolution. From this standpoint the restoration of Parliament is part of our programme." If these revelations had been accessible to the public in 1886 it is doubtful whether Mr. Gladstone would have been able to bring forward his Bill at all. They ought not to be of less weight now, when a repetition of the offer of surrender to "an influence akin to fear"—Mr. Gladstone's own phrase—is contemplated.

The lesson of the Divorce Court.

From another quarter much light was thrown on the character of the men to whom Mr. Gladstone's policy proposed to surrender the government of Ireland. Mr. Parnell's collapse in the Divorce Court, where it was shown that he had carried on for years an adulterous intrigue in circumstances of peculiar baseness and duplicity, shattered the illusions that the Gladstonians had cherished for years. It was no longer possible to put faith in the honour and integrity of "the leader of the Irish people"; and the crew of time-servers that began to struggle for the power which had slipped from Mr. Parnell's grasp were evidently not a whit more trustworthy. In the worst period of the French Revolution the *Dictionnaire des Girouettes* recorded no more scandalous example of treachery and tergiversation than the abandonment of Mr. Parnell by the men who had beslavered him with fulsome flattery in the Leinster Hall after the verdict in the Divorce Court. The prolonged conflict in Committee Room No. 15 and the rivalry between Parnellites and Anti-Parnellites more than confirmed all that the Unionists had ever said or suspected about the unfitness of the Irish agitators to be entrusted with practically uncontrolled power over the rights and liberties of their fellow-citizens. Each faction hurled at the other accusations

of fraud and violence, of mendacity and theft, of suborning evidence and inciting to outrage, of terrorism, intolerance, and moral assassination. The one side arrayed itself under the banners of the Roman Catholic priesthood, which has always claimed, and has repeatedly exercised, in Ireland the right to dictate the duty of the people in politics. The other side allied itself openly with the "hill-side men," the remains of the old Fenian conspiracy, the police of the League, the agents and mercenaries of the Clan-na-Gael and of the kindred societies beyond the Atlantic.

The Unionists were fully justified in contending that these revelations of character had destroyed one of the main assumptions on which Mr. Gladstone's policy was based. The Separatists themselves, in their internecine fury, made admissions that went nearly as far. On the one hand, Archbishop Croke said*—"I am afraid the cause is lost. Are we really fit for Home Rule and do we deserve it?" He quoted the opinion expressed by "staunch and intelligent" Irishmen that the Irish "had given both friends and foes reason to believe that they were at present utterly unfit for freedom." On the other hand, the Parnellites were loud in their outcries against clerical tyranny, which, they argued, must make Protestant England reluctant to concede Home Rule to Ireland. Their charges and contentions on this point were brought to the test of an elaborate judicial inquiry on the recent trial of the election petitions in South and North Meath, where the Judges found that spiritual terrorism in the grossest form had been employed by Bishop Nulty and his priests, some of the latter even descending to scandalous acts of personal violence. This system of intimidation on which the Judges so severely animadverted became a still more serious factor in the

The Meath Election petitions.

* *National Press*, May 28, 1891.

situation when it appeared that it was not a passing ebullition of temper, but a settled scheme of policy. Several years earlier Archbishop Walsh had claimed for the Irish priesthood the "inalienable and indisputable right to guide their people" in politics as well as in faith and morals.

Mr. Healy, who appeared as counsel for the clerical party in the Meath cases, asserted* that Dr. Nulty's pastoral and the personal interference of his clergy were a legitimate exercise of this right, which the Church, in spite of any judicial decisions to the contrary, did not intend for one moment to abandon or to abate. "The right of private judgment," he added, "was the right of private stupidity."

Mr. Healy on "private judgment."

The indignation with which Protestant Ulster protested against the Bill of 1886 has been naturally intensified by the gradual disclosure of the real meaning of the policy of that measure, of the flimsiness of its pretended safeguards, of the intolerant pretensions of the Roman Catholic hierarchy and their power of giving effect to them, and of the danger with which every form of property in Ireland was threatened. It was noted that the prohibition of interference with religious endowments was evaded by the sub-section of clause 19, and that, while Mr. Gladstone professed to put Ireland under Home Rule in the position of a State of the American Union, he introduced no provision like that in the Constitution of the United States forbidding the abrogation of existing contracts by State legislation. Protestant Ulster refused more emphatically than ever to be associated in unequal partnership either with priests like Dr. Nulty or with Fenians and Land Leaguers. The striking and all but unanimous declaration in favour of the Union by nearly a thousand non-Episcopalian Protestant ministers in Ireland, herein

The protest of Ulster.

Declaration of Dissenting ministers.

* Speech for the respondent on the trial of the South Meath Petition.

associated with the disestablished Church, from whom many of their leaders had long been separated in politics, was followed up by the Belfast Convention—the most remarkable proof yet given of the success of Mr. Gladstone's disruptionist schemes in fusing together all the progressive elements in the North of Ireland, of whatever class, race, or creed, in opposition to the surrender to Separatism. In the face of these facts, Unionists in England and Scotland have been confirmed in the attitude they took up seven years ago. Then Mr. Spurgeon wrote*:—"Especially I feel the wrong done to our Ulster brethren. What have they done to be thus cast off? The whole scheme is as full of dangers and absurdities as that of a madman." And Mr. Bright, denouncing this "stupendous injustice and blunder,"† and predicting its failure, declared that he, at least, "would be no party to a measure which would thrust them (the Irish loyalists) from the generosity of the United and Imperial Parliament." These warnings and protests from men who cannot be branded as Tories, have lost none of their force when it is seen that the imposition of Home Rule on Ireland will involve the risk, or rather the certainty, of what Mr. Morley has styled‡ "a reduced and squalid version of the Thirty Years' War."

Belfast Convention.

Mr. Spurgeon on Ulster.

Mr. Bright.

Indications of how Home Rule would work.

Notwithstanding the inducements operating upon the Nationalist leaders which have subdued their utterances and minimized their claims in order, as Mr. Healy says, to "conciliate English opinion," there have been indications enough of the way in which Home Rule would be worked. The Plan of Campaign and the speeches delivered by its organizers show how the right to tamper with con-

* Letter to a Cardiff Liberal, May, 1886 (quoted in the *British Weekly*, February 4, 1892).

† Speech at Birmingham, *Times*, July 2, 1886. See, also, his Election Address, issued June 24, 1886.

‡ *Nineteenth Century*, November, 1882, p. 655.

tracts, with which Mr. Gladstone proposes to invest the Home Rule Parliament, would be enforced. Mr. Dillon has openly and repeatedly asserted,* that, when Home Rule comes, the police and all who have not sided with "the people" will find that their conduct has not been forgotten. Mr. Davitt has denounced† the Ulstermen quite in the style of his friend Mr. Ford, and jauntily says:—"Leave them alone to us, and we will make short work of these gentry." Their promises are even more significant than their threats. When we are told that the Parnellites are solely responsible for the encouragement of wild hopes about the deliverance of the dynamiters, let it be borne in mind that in October, 1891, Mr. Dillon said at Thurles‡:—"We all want amnesty, and believe me the best way to win amnesty is to hurl the Tory Government from office; and I am perfectly convinced that when the Home Rule Bill is brought forward no Irishman will be detained in an English gaol for political offences." Mr. Davitt's pledges on behalf of the evicted tenants and other "wounded soldiers" in the anti-English war are quite as unqualified. "The first duty," he said in June, 1888,§ "which should devolve upon the first Home Rule Parliament ought to be the reinstatement of every family in its holding that has been evicted since the land agitation began ten years ago." And he added that "every man and woman who had been imprisoned during the same period for resisting eviction or for refusing to become informers in Star Chamber Courts, or for rendering soldierly service in this movement, ought to be entitled to a pension for life at the hands of a self-governed Ireland, if such persons choose to accept such a reward."

Threats of Messrs Dillon and Davitt;

and their promises.

* See, for example, *Freeman's Journal*, December 6, 1886.

† Report of an "interview" in the *Pall Mall Gazette*, May 13, 1886.

‡ *National Press*, October 7, 1891.

§ *Freeman's Journal*, June 18, 1888.

The keystone of the Unionist position.

With such new light thrown upon the character, the purposes, and the dominating forces of the Irish agitation and its leaders, it is evident that all the motives which acted upon Unionists six or seven years ago are now doubly strong. Nor can we doubt that the Gladstonians have lost confidence in a policy, the defects and dangers of which are avowed by the shifts and dodges its authors have had resort to. Nevertheless they are tied hand and foot by their leader's pledges. In June last* Mr. Gladstone told the Labour deputation:—"I am so bound in honour and character to the Irish question that I should really disgrace myself to the lowest point that the most unprincipled could possibly sink to if I were to recede from the position to which I am bound by the struggle of the last few years." Since then the general election has taken place, and though Mr. Gladstone has a nominal majority—won, as his partisans admit, by the power of his name alone—there is a majority of more than 70 against him among the representatives of England. Politicians so different in hue as Lord Brassey, Sir Edward Reed, and Mr. T. P. O'Connor, have pointed out the extreme difficulty of attempting any fundamental change in the Constitution against the expressed wishes of the most important member of the national partnership known as the United Kingdom. This is the corner-stone of the Unionist position, and upon it the Union stands secure.

Mr. Gladstone bound to the Irish Question.

* *Times*, June 17, 1892.

Pol. - Gr. Brit. & Ireland. (1886.)

APPENDIX A.

GOVERNMENT OF IRELAND BILL.

ARRANGEMENT OF CLAUSES.

PART I.

Legislative Authority.

Clause.

1. Establishment of Irish Legislature.
2. Powers of Irish Legislature.
3. Exceptions from powers of Irish Legislature.
4. Restrictions on powers of Irish Legislature.
5. Prerogatives of Her Majesty as to Irish Legislative Body.
6. Duration of the Irish Legislative Body.

Executive Authority.

7. Constitution of the Executive Authority.
8. Use of Crown lands by Irish Government.

Constitution of Legislative Body.

9. Constitution of Irish Legislative Body.
10. First order.
11. Second order.

Finance.

12. Taxes and separate Consolidated Fund.
13. Annual contributions from Ireland to Consolidated Fund of United Kingdom.
14. Collection and application of customs and excise duties in Ireland.
15. Charges on Irish Consolidated Fund.
16. Irish Church Fund.
17. Public loans.
18. Additional aid in case of war.
19. Money bills and votes.
20. Exchequer divisions and revenue actions.

Police.

21. Police.

PART II.

SUPPLEMENTAL PROVISIONS.

Powers of Her Majesty.

Clause.
22. Powers over certain lands reserved to Her Majesty.

Legislative Body.

23. Veto by first order of Legislative Body, how over-ruled.
24. Cesser of power of Ireland to return members to Parliament.

Decision of Constitutional Questions.

25. Constitutional questions to be submitted to Judicial Committee.

Lord Lieutenant.

26. Office of Lord Lieutenant.

Judges and Civil Servants.

27. Judges to be removable only on address.
28. Provision as to judges and other persons having salaries charged on the Consolidated Fund.
29. As to persons holding civil service appointments.
30. Provision for existing pensions and superannuation allowances.

Transitory Provisions.

31. Transitory provisions in Schedule.

Miscellaneous.

32. Post Office and savings banks.
33. Audit.
34. Application of parliamentary law.
35. Regulations for carrying Act into effect.
36. Saving of powers of House of Lords.
37. Saving of rights of Parliament.
38. Continuance of existing laws, courts, officers, &c.
39. Mode of alteration of Act.
40. Definitions.
41. Short title of Act.

SCHEDULES.

A BILL

TO AMEND

The provision for the future Government of Ireland. A.D. 1886.

[49 VICT.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.

Legislative Authority.

Establishment of Irish Legislature.

1. On and after the appointed day there shall be established in Ireland a Legislature consisting of Her Majesty the Queen and an Irish Legislative Body.

Powers of Irish Legislature.

2. With the exceptions and subject to the restrictions in this Act mentioned, it shall be lawful for Her Majesty the Queen, by and with the advice of the Irish Legislative Body, to make laws for the peace, order, and good government of Ireland, and by any such law to alter and repeal any law in Ireland.

Exceptions from powers of Irish Legislature.

3. The Legislature of Ireland shall not make laws relating to the following matters or any of them:—

(1.) The status or dignity of the Crown, or the succession to the Crown, or a Regency;

(2.) The making of peace or war;

(3.) The army, navy, militia, volunteers, or other military or naval forces, or the defence of the realm;

(4.) Treaties and other relations with foreign States, or the relations between the various parts of Her Majesty's dominions;

(5.) Dignities or titles of honour;

(6.) Prize or booty of war;

(7.) Offences against the law of nations; or offences committed in violation of any treaty made, or hereafter to be made, between Her Majesty and any foreign State; or offences committed on the high seas;

A.D. 1886.

(8.) Treason, alienage, or naturalization;

(9.) Trade, navigation, or quarantine;

(10.) The postal and telegraph service, except as hereafter in this Act mentioned with respect to the transmission of letters and telegrams in Ireland;

(11.) Beacons, lighthouses, or sea marks;

(12.) The coinage; the value of foreign money; legal tender; or weights and measures; or

(13.) Copyright, patent rights, or other exclusive rights to the use or profits of any works or inventions.

Any law made in contravention of this section shall be void.

Restrictions on powers of Irish Legislature.

4. The Irish Legislature shall not make any law—

(1.) Respecting the establishment or endowment of religion, or prohibiting the free exercise thereof; or

(2.) Imposing any disability, or conferring any privilege, on account of religious belief; or

(3.) Abrogating or derogating from the right to establish or maintain any place of denominational education or any denominational institution or charity; or

(4.) Prejudicially affecting the right of any child to attend a school receiving public money without attending the religious instruction at that school; or

(5.) Impairing, without either the leave of Her Majesty in Council first obtained on an address presented by the Legislative Body of Ireland, or the consent of the corporation interested, the rights, property, or privileges of any existing corporation incorporated by royal charter or local and general Act of Parliament; or

(6.) Imposing or relating to duties of customs and duties of excise, as defined by this Act, or either of such duties or affecting any Act relating to such duties or either of them; or

(7.) Affecting this Act, except in so far as it is declared to be alterable by the Irish Legislature.

Prerogatives of Her Majesty as to Irish Legislative Body.

5. Her Majesty the Queen shall have the same prerogatives with respect to summoning, proroguing, and dissolving the Irish Legislative Body as Her Majesty has with respect to summoning, proroguing, and dissolving the Imperial Parliament.

Duration of the Irish Legislative Body.

6. The Irish Legislative Body whenever summoned may have continuance for *five years* and no longer, to be reckoned from the day on which any such Legislative Body is appointed to meet.

Executive Authority.

Constitution of the Executive Authority.

7.—(1.) The Executive Government of Ireland shall continue vested in Her Majesty, and shall be carried on by the Lord Lieutenant on behalf of Her Majesty with the aid of such officers and such council as to Her Majesty may from time to time seem fit.

(2.) Subject to any instructions which may from time to time be given by Her Majesty, the Lord Lieutenant shall give or withhold the assent of Her Majesty to Bills passed by the Irish Legislative Body, and shall exercise the prerogatives of Her Majesty in respect of the summoning, proroguing, and dissolving of the Irish Legislative Body, and any prerogatives the exercise of which may be delegated to him by Her Majesty.

Use of Crown lands by Irish Government.

8. Her Majesty may, by Order in Council, from time to time place under the control of the Irish Government, for the purposes of that Government, any such lands and buildings in Ireland as may be vested in or held in trust for Her Majesty.

Constitution of Legislative Body.

Constitution of Irish Legislative Body.

9.—(1.) The Irish Legislative Body shall consist of a first and second order.

(2.) The two orders shall deliberate together, and shall vote together, except that, if any question arises in relation to legislation or to the Standing Orders or Rules of Procedure or to any other matter in that behalf in this Act specified, and such question is to be determined by vote, each order shall, if a majority of the members present of either order demand a separate vote, give their votes in like manner as if they were separate Legislative Bodies; and if the result of the voting of the two orders does not agree the question shall be resolved in the negative.

First order.

10.—(1.) The first order of the Irish Legislative Body shall consist of one hundred and three members, of whom seventy-five shall be elective members and twenty-eight peerage members.

(2.) Each elective member shall at the date of his election and during his period of membership be bonâ fide possessed of property which—

(a.) if realty, or partly realty and partly personalty, yields two hundred pounds a year or upwards, free of all charges; or

(b.) if personalty yields the same income, or is of the capital value of four thousand pounds or upwards, free of all charges.

A.D. 1886.

(2.) For the purpose of electing the elective members of the first order of the Legislative Body, Ireland shall be divided into the electoral districts specified in the First Schedule to this Act, and each such district shall return the number of members in that behalf specified in that Schedule.

(3.) The elective members shall be elected by the registered electors of each electoral district, and for that purpose a register of electors shall be made annually.

(4.) An elector in each electoral district shall be qualified as follows, that is to say, he shall be of full age, and not subject to any legal incapacity, and shall have been during the twelve months next preceding the *twentieth day of July* in any year the owner or occupier of some land or tenement within the district of a net annual value of twenty-five pounds or upwards.

(5.) The term of office of an elective member shall be *ten years*.

(6.) In every fifth year thirty-seven or thirty-eight of the elective members, as the case requires, shall retire from office, and their places shall be filled by election; the members to retire shall be those who have been members for the longest time without re-election.

(7.) The offices of the peerage members shall be filled as follows; that is to say,—

(*a.*) Each of the Irish peers who on the appointed day is one of the twenty-eight Irish representative peers, shall, on giving his written assent to the Lord Lieutenant, become a peerage member of the first order of the Irish Legislative Body; and if at any time within *thirty years* after the appointed day any such peer vacates his office by death or resignation, the vacancy shall be filled by the election to that office by the Irish peers of one of their number in manner heretofore in use respecting the election of Irish representative peers, subject to adaptation as provided by this Act, and if the vacancy is not so filled within the proper time it shall be filled by the election of an elective member.

(*b.*) If any of the twenty-eight peers aforesaid does not within *one month* after the appointed day give such assent to be a peerage member of the first order, the vacancy so created shall be filled up as if he had assented and vacated his office by resignation.

(8.) A peerage member shall be entitled to hold office during his life, or until the expiration of *thirty years* from the appointed day, whichever period is the shortest. At the expiration of such *thirty years* the offices of all the peerage members shall be vacated as if they were dead, and their places shall be filled by elective members qualified and elected in manner provided by

this Act with respect to elective members of the first order, and such elective members may be distributed by the Irish Legislature among the electoral districts, so, however, that care shall be taken to give additional members to the most populous places. A.D. 1886.

(9.) The offices of members of the first order shall not be vacated by the dissolution of the Legislative Body.

(10.) The provisions in the Second Schedule to this Act relating to members of the first order of the Legislative Body shall be of the same force as if they were enacted in the body of this Act.

Second order.

11.—(1.) Subject as in this section hereafter mentioned, the second order of the Legislative Body shall consist of two hundred and four members.

(2.) The members of the second order shall be chosen by the existing constituencies of Ireland, two by each constituency, with the exception of the city of Cork, which shall be divided into two divisions in manner set forth in the Third Schedule to this Act, and two members shall be chosen by each of such divisions.

(3.) Any person who, on the appointed day, is a member representing an existing Irish constituency in the House of Commons shall, on giving his written assent to the Lord Lieutenant, become a member of the second order of the Irish Legislative Body as if he had been elected by the constituency which he was representing in the House of Commons. Each of the members for the city of Cork, on the said day, may elect for which of the divisions of that city he wishes to be deemed to have been elected.

(4.) If any member does not give such written assent within *one month* after the appointed day, his place shall be filled by election in the same manner and at the same time as if he had assented and vacated his office by death.

(5.) If the same person is elected to both orders, he shall, within *seven days* after the meeting of the Legislative Body, or if the Body is sitting at the time of the election, within *seven days* after the election, elect in which order he will serve, and his membership of the other order shall be void and be filled by a fresh election.

(6.) Notwithstanding anything in this Act, it shall be lawful for the Legislature of Ireland at any time to pass an Act enabling the Royal University of Ireland to return not more than two members to the second order of the Irish Legislative Body in addition to the number of members above mentioned.

(7.) Notwithstanding anything in this Act, it shall be lawful for the Irish Legislature, after the first dissolution of the Legislative Body which occurs, to alter the constitution or election of

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the second order of that body, due regard being had in the distribution of members to the population of the constituencies; provided that no alteration shall be made in the number of such order.

Finance.

Taxes and separate Consolidated Fund.

12.—(1.) For the purpose of providing for the public service of Ireland the Irish Legislature may impose taxes, other than duties of customs or excise as defined by this Act, which duties shall continue to be imposed and levied by and under the direction of the Imperial Parliament only.

(2.) On and after the appointed day there shall be an Irish Consolidated Fund separate from the Consolidated Fund of the United Kingdom.

(3.) All taxes imposed by the Legislature of Ireland and all other public revenues under the control of the Government of Ireland shall, subject to any provisions touching the disposal thereof contained in any Act passed in the present session respecting the sale and purchase of land in Ireland, be paid into the Irish Consolidated Fund, and be appropriated to the public service of Ireland according to law.

Annual contributions from Ireland to Consolidated Fund of United Kingdom.

13.—(1.) Subject to the provisions for the reduction or cesser thereof in this section mentioned, there shall be made on the part of Ireland to the Consolidated Fund of the United Kingdom the following annual contributions in every financial year; ~~that is to say,~~—

(*a.*) The sum of *one million four hundred and sixty-six thousand pounds* on account of the interest on and management of the Irish share of the National Debt:

(*b.*) the sum of *one million six hundred and sixty-six thousand pounds* on account of the expenditure on the army and navy of the United Kingdom:

(*c.*) The sum of *one hundred and ten thousand pounds* on account of the Imperial civil expenditure of the United Kingdom:

(*d.*) The sum of *one million pounds* on account of the Royal Irish Constabulary and the Dublin Metropolitan Police.

(2.) During the period of *thirty* years from this section taking effect the said annual contributions shall not be increased, but may be reduced or cease as hereinafter mentioned. After the expiration of the said *thirty years* the said contributions shall, save as otherwise provided by this section, continue until altered in manner provided with respect to the alteration of this Act.

(3.) The Irish share of the National Debt shall be reckoned at *forty-eight million pounds* Bank annuities, and there shall be paid

in every financial year on behalf of Ireland to the Commissioners for the reduction of the National Debt an annual sum of *three hundred and sixty thousand pounds*, and the permanent annual charge for the National Debt on the Consolidated Fund of the United Kingdom shall be reduced by that amount, and the said annual sum shall be applied by the said Commissioners as a sinking fund for the redemption of the National Debt, and the Irish share of the National Debt shall be reduced by the amount of the National Debt so redeemed, and the said annual contribution on account of the interest on and management of the Irish share of the National Debt shall from time to time be reduced by a sum equal to the interest upon the amount of the National Debt from time to time so redeemed, but that last-mentioned sum shall be paid annually to the Commissioners for the Reduction of the National Debt in addition to the above-mentioned annual sinking fund, and shall be so paid and be applied as if it were part of that sinking fund. A.D. 1886.

(4.) As soon as an amount of the National Debt equal to the said Irish share thereof has been redeemed under the provisions of this section, the said annual contribution on account of the interest on and management of the Irish share of the National Debt, and the said annual sum for a sinking fund, shall cease.

(5.) If it appears to Her Majesty that the expenditure in respect of the army and navy of the United Kingdom, or in respect of Imperial civil expenditure of the United Kingdom, for any financial year has been less than *fifteen* times the amount of the contributions above named on account of the same matter, a sum equal to *one-fifteenth* part of the diminution shall be deducted from the current annual contribution for the same matter.

(6.) The sum paid from time to time by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues to the Consolidated Fund of the United Kingdom on account of the hereditary revenues of the Crown in Ireland shall be credited to the Irish Government, and go in reduction of the said annual contribution payable on account of the imperial civil expenditure of the United Kingdom, but shall not be taken into account in calculating whether such diminution as above mentioned has or has not taken place in such expenditure.

(7.) If it appears to Her Majesty that the expenditure in respect of the Royal Irish Constabulary and the Dublin Metropolitan Police for any financial year has been less than the contribution above named on account of such constabulary and police, the current contribution shall be diminished by the amount of such difference.

(8.) This section shall take effect from and after the *thirty-first day of March one thousand eight hundred and eighty-seven.*

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Collection and application of customs and exciseduties in Ireland.

14.—(1.) On and after such day as the Treasury may direct all moneys from time to time collected in Ireland on account of the duties of customs or the duties of excise as defined by this Act shall, under such regulations as the Treasury from time to time make, be carried to a separate account (in this Act referred to as the customs and excise account) and applied in the payment of the following sums in priority as mentioned in this section; that is to say,—

First, of such sum as is from time to time directed by the Treasury in respect of the costs, charges, and expenses of and incident to the collection and management of the said duties in Ireland not exceeding four per cent. of the amount collected there;

Secondly, of the annual contributions required by this Act to be made to the Consolidated Fund of the United Kingdom;

Thirdly, of the annual sums required by this Act to be paid to the Commissioners for the Reduction of the National Debt;

Fourthly, of all sums by this Act declared to be payable out of the moneys carried to the customs and excise account;

Fifthly, of all sums due to the Consolidated Fund of the United Kingdom for interest or sinking fund, in respect of any loans made by the issue of bank annuities or otherwise to the Government of Ireland under any Act passed in the present session relating to the purchase and sale of land in Ireland, so far as such sums are not defrayed out of the moneys received under such Act.

(2.) So much of the moneys carried to a separate account under this section as the Treasury consider are not, and are not likely to be, required to meet the above-mentioned payments, shall from time to time be paid over and applied as part of the public revenues under the control of the Irish Government.

Charges on Irish Consolidated Fund.

15.—(1.) There shall be charged on the Irish Consolidated Fund in priority as mentioned in this section:—

First, such portion of the sums directed by this Act to be paid out of the moneys carried to the customs and excise account in priority to any payment for the public revenues of Ireland, as those moneys are insufficient to pay;

Secondly, all sums due in respect of any debt incurred by the Government of Ireland, whether for interest, management, or sinking fund;

Thirdly, all sums which at the passing of this Act are charged on the Consolidated Fund of the United Kingdom in respect of Irish services other than the salary of the Lord Lieutenant;

Fourthly, the salaries of all judges of the Supreme Court of Judicature or other superior court in Ireland, or of any county or other like court, who are appointed after the passing of this Act, and the pensions of such judges;

Fifthly, any other sums charged by this Act on the Irish Consolidated Fund.

(2.) It shall be the duty of the Legislature of Ireland to impose all such taxes, duties, or imposts as will raise a sufficient revenue to meet all sums charged for the time being on the Irish Consolidated Fund.

Irish Church Fund.

16. Until all charges which are payable out of the Church property in Ireland, and are guaranteed by the Treasury, have been fully paid, the Irish Land Commission shall continue as heretofore to exist, with such Commissioners and officers receiving such salaries as the Treasury may from time to time appoint, and to administer the Church property and apply the income and other moneys receivable therefrom; and so much of the salaries of such Commissioners and officers and expenses of the office as is not paid out of the Church property shall be paid out of the moneys carried to the customs and excise account under this Act, and if those moneys are insufficient, out of the Consolidated Fund of Ireland, and if not so paid, shall be paid out of moneys provided by Parliament.

Provided as follows:—

(*a*) All charges on the Church property for which a guarantee has been given by the Treasury before the passing of this Act shall, so far as they are not paid out of such property, be paid out of the moneys carried to the Customs and Excise account under this Act, and if such moneys are insufficient, the Consolidated Fund of Ireland, without prejudice nevertheless to the guarantee of the Treasury;

(*b.*) All charges on the Church property, for which no guarantee has been given by the Treasury before the passing of this Act shall be charged on the Consolidated Fund of Ireland, but shall not be guaranteed by the Treasury nor charged on the Consolidated Fund of the United Kingdom.

(2.) Subject to any existing charges on the Church property, such property shall belong to the Irish Government and any portion of the annual revenue thereof which the Treasury, on the application of the Irish Government, certify at the end of any financial year not to be required for meeting charges, shall be paid over and applied as part of the public revenues under the control of the Irish Government.

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(3.) As soon as all charges on the Church property guaranteed by the Treasury have been paid, such property may be managed and administered, and subject to existing charges thereon disposed of, and the income or proceeds thereof applied, in such manner as the Irish Legislature may from time to time direct.

(4.) "Church property" in this section means all property accruing under the Irish Church Act, 1869, and transferred to the Irish Land Commission by the Irish Church Act Amendment Act, 1881.

32 & 33 Vict. c. 42. 44 & 45 Vict. c. 71.

Public loans.

17.—(1.) All sums due for principal or interest to the Public Works Loan Commissioners or to the Commissioners of Public Works in Ireland in respect of existing loans advanced on any security in Ireland shall on and after the appointed day be due to the Government of Ireland instead of the said Commissioners, and such body of persons as the Government of Ireland may appoint for the purpose shall have all the powers of the said Commissioners or their secretary for enforcing payment of such sums, and all securities for such sums given to such Commissioners or their secretary shall have effect as if the said body were therein substituted for those Commissioners or their secretary.

(2.) For the repayment of the said loans to the Consolidated Fund of the United Kingdom the Irish Government shall pay annually into that fund by half-yearly payments on the *first day of January* and the *first day of July*, or on such other days as may be agreed on, such instalments of the principal of the said loans as will discharge all the loans within *thirty years* from the appointed day, and shall also pay interest half yearly on so much of the said principal as from time to time remains unpaid at the rate of *three* per cent. per annum, and such instalments of principal and interest shall be paid out of the moneys carried to the customs and excise account under this Act, and if those are insufficient, out of the Consolidated Fund of Ireland.

Additional aid in case of war.

18. If Her Majesty declares that a state of war exists and is pleased to signify such declaration to the Irish Legislative Body by speech or message, it shall be lawful for the Irish Legislature to appropriate a further sum out of the Consolidated Fund of Ireland in aid of the army or navy, or other measures which Her Majesty may take for the prosecution of the war and defence of the realm, and to provide and raise money for that purpose; and all moneys so provided and raised, whether by loan, taxation, or otherwise, shall be paid into the Consolidated Fund of the United Kingdom.

Money bills and votes.

19.—(1.) It shall not be lawful for the Irish Legislative Body to adopt or pass any vote, resolution, address, or Bill for the raising or appropriation for any purpose of any part of the public

revenue of Ireland, or of any tax, duty, or impost, except in pursuance of a recommendation from Her Majesty signified through the Lord Lieutenant in the session in which such vote, resolution, address, or Bill is proposed. A.D. 1886.

(2.) Notwithstanding that the Irish Legislature is prohibited by this Act for making laws relating to certain subjects, that Legislature may, with the assent of Her Majesty in Council first obtained, appropriate any part of the Irish public revenue, or any tax, duty, or impost imposed by such Legislature, for the purpose of, or in connexion with, such subjects.

Exchequer Division and revenue actions.

20.—(1.) On and after the appointed day, the Exchequer Division of the High Court of Justice shall continue to be a Court of Exchequer for revenue purposes under this Act, and whenever any vacancy occurs in the office of any judge of such Exchequer Division, his successor shall be appointed by Her Majesty on the joint recommendation of the Lord Lieutenant of Ireland and the Lord High Chancellor of Great Britain.

(2.) The judges of such Exchequer Division appointed after the passing of this Act shall be removable only by Her Majesty on address from the two Houses of the Imperial Parliament, and shall receive the same salaries and pensions as those payable at the passing of this Act to the existing judges of such division, unless with the assent of Her Majesty in Council first obtained, the Irish Legislature alters such salaries or pensions, and such salaries and pensions shall be paid out of the moneys carried to the customs and excise account in pursuance of this Act, and if the same are insufficient shall be paid out of the Irish Consolidated Fund, and if not so paid shall be paid out of the Consolidated Fund of the United Kingdom.

(3.) An alteration of any rules relating to the procedure in such legal proceedings as are mentioned in this section shall not be made except with the approval of the Lord High Chancellor of Great Britain, and the sittings of the Exchequer division and the judges thereof shall be regulated with the like approval.

(4.) All legal proceedings instituted in Ireland by or against the Commissioners or any officers of custom or excise, or the Treasury, shall, if so required by any party to such proceedings, be heard and determined before the judges of such Exchequer division, or some or one of them, and any appeal from the decision in any such legal proceeding, if by a judge, shall lie to the said division, and if by the Exchequer division, shall lie to the House of Lords, and not to any other tribunal; and if it is made to appear to such judges, or any of them, that any decree or judgment in any such proceeding as aforesaid, has not been duly enforced by the sheriff or other officer whose duty it is to enforce the same, such judges or judge shall appoint some officer to enforce such judgment or decree; and it shall be the duty of

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such officer to take proper steps to enforce the same, and for that purpose such officer and all persons employed by him shall be entitled to the same immunities, powers, and privileges as are by law conferred on a sheriff and his officers.

(5.) All sums recovered in respect of duties of Customs and Excise, or under any Act relating thereto, or by an officer of Customs or Excise, shall, notwithstanding anything in any other Act, be paid to the Treasury, and carried to the Customs and Excise account under this Act.

Police.

Police.

21. The following regulations shall be made with respect to police in Ireland:

(*a.*) The Dublin Metropolitan Police shall continue and be subject as heretofore to the control of the Lord Lieutenant as representing Her Majesty for a period of *two years* from the passing of this Act, and thereafter until any alteration is made by Act of the Legislature of Ireland, but such Act shall provide for the proper saving of all then existing interests, whether as regards pay, pensions, superannuation allowances, or otherwise.

(*b.*) The Royal Irish Constabulary shall, while that force subsists, continue and be subject as heretofore to the control of the Lord Lieutenant as representing Her Majesty.

(*c.*) The Irish Legislature may provide for the establishment and maintenance of a police force in counties and boroughs in Ireland under the control of local authorities, and arrangements may be made between the Treasury and the Irish Government for the establishment and maintenance of police reserves.

PART II.

SUPPLEMENTAL PROVISIONS.

Powers of Her Majesty.

Power over certain lands reserved to Her Majesty.

22. On and after the appointed day there shall be reserved to Her Majesty—

(1.) The power of erecting forts, magazines, arsenals, dockyards, and other buildings for military or naval purposes;

(2.) The power of taking waste land, and, on making due compensation, any other land, for the purpose of erecting such forts, magazines, arsenals, dockyards, or other buildings as aforesaid, and for any other military or naval purpose, or the defence of the realm.

Legislative Body.

Veto by first order of Legislative Body, how overruled.

23. If a Bill or any provision of a Bill is lost by disagreement between the two orders of the Legislative Body, and after a period ending with a dissolution of the Legislative Body, or the period of *three years* whichever period is longest, such Bill, or a Bill containing the said provision, is again considered by the Legislative Body, and such Bill or provision is adopted by the second order and negatived by the first order, the same shall be submitted to the whole Legislative Body, both orders of which shall vote together on the Bill or provision, and the same shall be adopted or rejected according to the decision of the majority of the members so voting together.

Cesser of power of Ireland to return members to Parliament.

24. On and after the appointed day Ireland shall cease, except in the event hereafter in this Act mentioned, to return representative peers to the House of Lords or members to the House of Commons, and the persons who on the said day are such representative peers and members shall cease as such to be members of the House of Lords and House of Commons respectively.

Decision of Constitutional Questions.

Constitutional questions to be submitted to Judicial Committee.

25. Questions arising as to the powers conferred on the Legislature of Ireland under this Act shall be determined as follows:—

(*a.*) If any such question arises on any Bill passed by the Legislative Body, the Lord Lieutenant may refer such question to Her Majesty in Council;

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(*b.*) If, in the course of any action or other legal proceeding, such question arises on any Act of the Irish Legislature, any party to such action or other legal proceeding may, subject to the rules in this section mentioned, appeal from a decision on such question to Her Majesty in Council;

(*c.*) If any such question arises otherwise than as aforesaid on any Act of the Irish Legislature, the Lord Lieutenant or one of Her Majesty's principal Secretaries of State may refer such question to Her Majesty in Council;

(*d.*) Any question referred or appeal brought under this section to Her Majesty in Council shall be referred for the consideration of the Judicial Committee of the Privy Council;

(*e.*) The decision of Her Majesty in Council on any question referred or appeal brought under this section shall be final, and a Bill which may be so decided to be, or contain a provision, in excess of the powers of the Irish Legislature shall not be assented to by the Lord Lieutenant; and a provision of any Act which is so decided to be in excess of the powers of the Irish Legislature shall be void;

(*f.*) There shall be added to the Judicial Committee when sitting for the purpose of considering questions under this section, such members of Her Majesty's Privy Council, being or having been Irish judges, as to Her Majesty may seem meet;

(*g.*) Her Majesty may, by Order in Council from time to time, make rules as to the cases and mode in which and the conditions under which, in pursuance of this section, questions may be referred and appeals brought to Her Majesty in Council, and as to the consideration thereof by the Judicial Committee of the Privy Council, and any rules so made shall be of the same force as if they were enacted in this Act;

(*h.*) An appeal shall not lie to the House of Lords in respect of any question in respect of which an appeal can be had to Her Majesty in Council in pursuance of this section.

Lord Lieutenant.

Office of Lord Lieutenant

26.—(1.) Notwithstanding anything to the contrary contained in any Act of Parliament, every subject of Her Majesty shall be eligible to hold and enjoy the office of Lord Lieutenant of Ireland, without reference to his religious belief.

(2.) The salary of the Lord Lieutenant shall continue to be

charged on the Consolidated Fund of the United Kingdom, and the expenses of his household and establishment shall continue to be defrayed out of moneys to be provided by Parliament. A.D. 1886.

(3.) All existing powers vested by Act of Parliament or otherwise in the Chief Secretary for Ireland may, if no such officer is appointed, be exercised by the Lord Lieutenant until other provision is made by Act of the Irish Legislature.

(4.) The Legislature of Ireland shall not pass any Act relating to the office or functions of the Lord Lieutenant of Ireland.

Judges and Civil Servants.

Judges to be removable only on address.

27. A Judge of the Supreme Court of Judicature or other superior Court of Ireland, or of any county court or other court with a like jurisdiction in Ireland, appointed after the passing of this Act, shall not be removed from his office except in pursuance of an address to Her Majesty from both orders of the Legislative Body voting separately, nor shall his salary be diminished or right to pension altered during his continuance in office.

Provision as to judges and other persons having salaries charged on the Consolidated Fund.

28.—(1.) All persons who at the passing of this Act are judges of the Supreme Court of Judicature or county court judges, or hold any other judicial position in Ireland, shall, if they are removable at present on address to Her Majesty of both Houses of Parliament, continue to be removable only upon such address from both Houses of the Imperial Parliament, and if removable in any other manner shall continue to be removable in like manner as heretofore; and such persons, and also all persons at the passing of this Act in the permanent civil service of the Crown in Ireland whose salaries are charged on the Consolidated Fund of the United Kingdom, shall continue to hold office and to be entitled to the same salaries, pensions, and superannuation allowances as heretofore, and to be liable to perform the same or analogous duties as heretofore; and the salaries of such persons shall be paid out of the moneys carried to the customs and excise account under this Act, or if these moneys are insufficient, out of the Irish Consolidated Fund, and if the same are not so paid, shall continue charged on the Consolidated Fund of the United Kingdom.

(2.) *If any of the said persons retires from office with the approbation of Her Majesty before he has completed the period of service entitling him to a pension, it shall be lawful for Her Majesty, if she thinks fit, to grant to that person such pension, not exceeding the pension to which he would have been entitled if he had completed the said period of service, as to Her Majesty seems meet.*

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As to persons holding civil service appointments.

29.—(1). All persons not above provided for and at the passing of this Act serving in Ireland in the permanent civil service of the Crown shall continue to hold their offices and receive the same salaries, and to be entitled to the same gratuities and superannuation allowances as heretofore, and shall be liable to perform the same duties as heretofore or duties of similar rank, but any of such persons shall be entitled at the expiration of *two years* after the passing of this Act to retire from office, and at any time if required by the Irish Government shall retire from office, and on any such retirement shall be entitled to receive such payment as the Treasury may award to him in accordance with the provisions contained in the Fourth Schedule to this Act.

(2.) The amount of such payment shall be paid to him out of the moneys carried to the customs and excise account under this Act, or, if those moneys are insufficient, out of the Irish Consolidated Fund, *and so far as the same are not so paid shall be paid out of moneys provided by Parliament.*

34 & 35 Vict. c. 36.

(3.) The Pensions Commutation Act, 1871, shall apply to all persons who, having retired from office, are entitled to any annual payment under this section, in like manner as if they had retired in consequence of the abolition of their offices.

(4.) This section shall not apply to persons who are retained in the service of the Imperial Government.

Provision for existing pensions and superannuation allowances.

30. Where before the passing of this Act any pension or superannuation allowance has been granted to any person on account of service as a judge of the Supreme Court of Judicature of Ireland or of any court consolidated into that court, or as a county court judge, or in any other judicial position, or on account of service in the permanent civil service of the Crown in Ireland otherwise than in some office the holder of which is, after the passing of this Act, retained in the service of the Imperial Government, such pension or allowance, whether payable out of the Consolidated Fund or out of moneys provided by Parliament, shall continue to be paid to such person, and shall be so paid out of the moneys carried to the customs and excise account under this Act, or, if such moneys are insufficient, out of the Irish Consolidated Fund, and so far as the same is not so paid, shall be paid as heretofore out of the Consolidated Fund of the United Kingdom or moneys provided by Parliament.

Transitory Provisions.

Transitory provisions in schedule.

31. The provisions contained in the Fifth Schedule to this Act relating to the mode in which arrangements are to be made for setting in motion the Irish Legislative Body and Government and for the transfer to the Irish Government of the powers and

duties to be transferred to them under this Act, or for otherwise bringing this Act into operation, shall be of the same effect as if they were enacted in the body of this Act. A.D. 1886.

Miscellaneous.

Post office and savings banks.

32. Whenever an Act of the Legislature of Ireland has provided for carrying on the postal and telegraphic service with respect to the transmission of letters and telegrams in Ireland, and the post office and other savings banks in Ireland, and for protecting the officers then in such service, and the existing depositors in such post office savings banks, the Treasury shall make arrangements for the transfer of the said service and banks, in accordance with the said Act, and shall give public notice of the transfer, and shall pay all depositors in such post office savings banks who request payment within *six months* after the date fixed for such transfer, and after the expiration of such *six months* the said depositors shall cease to have any claim against the Postmaster General or the Consolidated Fund of the United Kingdom, but shall have the like claim against the Consolidated Fund of Ireland, and the Treasury shall cause to be transferred in accordance with the said Act the securities representing the sums due to the said depositors in post office savings banks and the securities held for other savings banks.

Audit.

33. Save as otherwise provided by the Irish Legislature,—

(*a.*) The existing law relating to the Exchequer and the Consolidated Fund of the United Kingdom shall apply to the Irish Exchequer and Consolidated Fund, and an officer shall from time to time be appointed by the Lord Lieutenant to fill the office of the Comptroller General of the receipt and issue of Her Majesty's Exchequer and Auditor General of public accounts so far as respects Ireland; and

(*b.*) The accounts of the Irish Consolidated Fund shall be audited as appropriation accounts in manner provided by the Exchequer and Audit Departments Act, 1866, by or under the direction of the holder of such office. 29 & 30 Vict. c. 39.

Application of parliamentary law.

34.—(1.) The privileges, immunities, and powers to be held, enjoyed, and exercised by the Irish Legislative Body, and the members thereof, shall be such as are from time to time defined by Act of the Irish Legislature, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the House of Commons, and by the members thereof.

(2.) Subject as in this Act mentioned, all existing laws and

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customs relating to the members of the House of Commons and their election, including the enactments respecting the questioning of elections, corrupt and illegal practices, and registration of electors, shall, so far as applicable, extend to elective members of the first order and to members of the second order of the Irish Legislative Body.

Provided that—

(*a.*) The law relating to the offices of profit enumerated in Schedule H. to the Representation of the People Act, 1867, shall apply to such offices of profit in the government of Ireland not exceeding ten, as the Legislature of Ireland may from time to time direct;

(*b.*) After the first dissolution of the Legislative Body, the Legislature of Ireland may, subject to the restrictions in this Act mentioned, alter the laws and customs in this section mentioned.

Regulations for carrying Act into effect.

35.—(1.) The Lord Lieutenant of Ireland may make regulations for the following purposes:—

(*a.*) The summoning of the Legislative Body and the election of a speaker, and such adaptation to the proceedings of the Legislative Body of the procedure of the House of Commons as appears to him expedient for facilitating the conduct of business by that body on their first meeting;

(*b.*) The adaptation of any law relating to the election of representative peers;

(*c.*) The adaptation of any laws and customs relating to the House of Commons or the members thereof to the elective members of the first order and to members of the second order of the Legislative Body; and

(*d.*) The mode of signifying their assent or election under this Act by representative peers or Irish members of the House of Commons as regards becoming members of the Irish Legislative Body in pursuance of this Act.

(2.) Any regulations so made shall, in so far as they concern the procedure of the Legislative Body, be subject to alteration by Standing Orders of that Body, and so far as they concern other matters, be subject to alteration by the Legislature of Ireland, but shall, until alteration, have the same effect as if they were inserted in this Act.

Saving of powers of House of Lords.

36. Save as in this Act provided with respect to matters to be decided by Her Majesty in Council, nothing in this Act shall affect the appellate jurisdiction of the House of Lords in respect of actions and suits in Ireland, or the jurisdiction of the House of Lords to determine the claims to Irish peerages.

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Saving of rights of Parliament.

37. Save as herein expressly provided all matters in relation to which it is not competent for the Irish Legislative Body to make or repeal laws shall remain and be within the exclusive authority of the Imperial Parliament save as aforesaid, whose power and authority in relation thereto shall in nowise be diminished or restrained by anything herein contained.

Continuance of existing laws, courts, officers, &c.

38.—(1.) Except as otherwise provided by this Act, all existing laws in force in Ireland, and all existing courts of civil and criminal jurisdiction, and all existing legal commissions, powers, and authorities, and all existing officers, judicial, administrative, and ministerial and all existing taxes, licence, and other duties, fees and other receipts in Ireland shall continue as if this Act had not been passed; subject, nevertheless, to be repealed, abolished, or altered in manner and to the extent provided by this Act; provided that, subject to the provisions of this Act, such taxes, duties, fees, and other receipts shall, after the appointed day, form part of the public revenues of Ireland.

(2.) The Commissioners of Inland Revenue and the Commissioners of Customs, and the officers of such Commissioners respectively, shall have the same powers in relation to any articles subject to any duty of excise or customs, manufactured, imported, kept for sale, or sold, and any premises where the same may be, and to any machinery, apparatus, vessels, utensils, or conveyance used in connexion therewith, or the removal thereof, and in relation to the person manufacturing, importing, keeping for sale, selling, or having the custody or possession of the same as they would have had if this Act had not been passed.

Mode of alteration of Act.

39.—(1.) On and after the appointed day this Act shall not, except such provisions thereof as are declared to be alterable by the Legislature of Ireland, be altered except—

(*a.*) by Act of the Imperial Parliament and with the consent of the Irish Legislative Body testified by an address to Her Majesty, or

(*b.*) by an Act of the Imperial Parliament, for the passing of which there shall be summoned to the House of Lords the peerage members of the first order of the Irish Legislative Body, and if there are no such members then twenty-eight Irish representative peers elected by the Irish peers in manner heretofore in use, subject to adaptation as provided by this Act; and there shall be summoned to the House of Commons such one of the members of each constituency, or in the case of a constituency returning four members such two of those members, as the Legislative Body of Ireland

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may select, and such peers and members shall respectively be deemed, for the purpose of passing any such Act, to be members of the said Houses of Parliament respectively.

(2.) For the purposes of this section it shall be lawful for Her Majesty by Order in Council to make such provisions for summoning the said peers of Ireland to the House of Lords and the said members from Ireland to the House of Commons as to Her Majesty may seem necessary or proper, and any provisions contained in such Order in Council shall have the same effect as if they had been enacted by Parliament.

Definitions.

40. In this Act—

The expression "the appointed day" shall mean such day after the *thirty-first day of March in the year one thousand eight hundred and eighty-seven* as may be determined by order of Her Majesty in Council.

The expression "Lord Lieutenant" includes the lords justices or any other chief governor or governors of Ireland for the time being.

The expression "Her Majesty the Queen," or "Her Majesty," or "the Queen," includes the heirs and successors of Her Majesty the Queen.

The expression "Treasury" means the Commissioners of Her Majesty's Treasury.

The expression "Treaty" includes any convention or arrangement.

The expression "existing" means existing at the passing of this Act.

The expression "existing constituency" means any county or borough, or division of a county or borough, or a University, returning at the passing of this Act a member or members to serve in Parliament.

The expression "duties of excise" does not include a duty received in respect of any license whether for the sale of intoxicating liquors or otherwise.

The expression "financial year" means the twelve months ending on the *thirty-first day of March.*

Short title of Act.

41. This Act may be cited for all purposes as the Irish Government Act, 1886.

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FIRST SCHEDULE.

FIRST ORDER OF THE IRISH LEGISLATIVE BODY.

Electoral Districts.	Number of Members.	Rotation.

SECOND SCHEDULE.

PROVISIONS RELATING TO THE FIRST ORDER OF THE IRISH LEGISLATIVE BODY.

THIRD SCHEDULE.

BOUNDARIES OF DIVISIONS OF THE CITY OF CORK FOR THE PURPOSE OF RETURNING MEMBERS TO THE SECOND ORDER OF THE LEGISLATIVE BODY.

FOURTH SCHEDULE.

PROVISIONS AS TO SUPERANNUATION ALLOWANCES OF PERSONS IN THE PERMANENT CIVIL SERVICE

FIFTH SCHEDULE.

TRANSITORY PROVISIONS.

APPENDIX B.

LAND PURCHASE BILL, 1886.

[SECTIONS 25 to 28.]

Financial Arrangements.

A.D. 1886.

Appointment of Receiver General of Ireland.

25. The Treasury shall from time to time appoint a Receiver General of the public revenues of Ireland (in this Act referred to as the Irish Receiver General), and such deputies or deputy to act under him in any part or parts of Ireland as to the Treasury seem necessary for the execution of this Act. Such Receiver General and deputies shall hold office as persons serving in an established capacity in the permanent civil service of the State, and shall be subject generally to the directions of the Treasury, *and shall be paid out of moneys provided by the Imperial Parliament such salaries as the Treasury from time to time assign.*

Collection and payment of land revenue.

26. All sums payable by tenants of holdings vested in them in pursuance of this Act, and all sums receivable by the State authority in pursuance of this Act, whether as capital or income, from any estates which are vested in them or over which they have any right, or from which they derive any profit (which sums are in this Act referred to as land revenues), shall be collected by such collectors as the Irish Government may from time to time appoint for that purpose.

Taxes, &c., payable to Receiver General.

27.—(1.) There shall be paid to the Irish Receiver General all sums collected by a collector in respect of any tax, duty, or impost imposed or levied by or under the direction of the Irish Legislature for the public service in Ireland or collected by a collector in respect of the land revenues under this Act, and all sums other than those above mentioned and payable on account or in respect of the public revenues of the Government of Ireland, whatever collector or person is liable to pay the same.

(2.) There shall also be paid to the Irish Receiver General all moneys directed by the Irish Government Act, 1886, to be carried to the customs and excise account.

(3.) If default is made in payment to the Irish Receiver General of any sum by this section required to be paid to him by any person, the person who makes such default, and the

person who receives such sum, in respect of which such default is made, and every person, whether a member of a corporation or not, who is privy to such default, shall forfeit double such sum to Her Majesty, and the Irish Receiver General or one of his deputies shall take proceedings to recover such sum, and the sum when recovered shall be paid into the Consolidated Fund of the United Kingdom.

(4.) If the Irish Receiver General under this Act or any of his deputies is guilty of any malfeasance in his office, he shall forfeit to Her Majesty all sums lost by such malfeasance, and also such penal sum not exceeding *five hundred pounds*, as the Court in which the forfeiture is sued for may determine; and such forfeiture and penal sum may be recovered by action on behalf of the Irish Government, and when recovered shall be paid to the Irish Consolidated Fund.

(5.) Every action or legal proceeding by or against the Irish Receiver General or any of his deputies or deputy shall, if either of the parties thereto so desire, be heard and determined by the Exchequer Division, or one of the judges thereof, and the provisions of the Irish Government Act, 1886, with respect to legal proceedings by or against the Commissioners of Customs in the Exchequer Division, shall apply in like manner as if those provisions were herein re-enacted, and in terms made applicable to the Irish Receiver General, and such Exchequer Division shall have for such purpose the same powers as at the passing of this Act are vested in any Division of the High Court of Justice.

Application of sums received by Irish Receiver General.

28.—(1.) The Irish Receiver General shall apply all sums received by him:

First, in paying all sums payable out of the moneys carried under the Irish Government Act, 1886, to the account therein called the customs and excise account, and

Secondly, in paying all sums directed by this Act to be paid out of the land revenues, or out of moneys coming to the hands of such Receiver General.

(2.) The Receiver General shall pay all sums which are not, or in his opinion are not likely to be, required for making the above-mentioned payments to the Irish Consolidated Fund.

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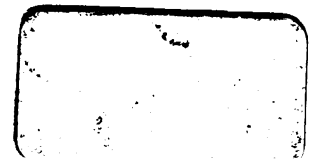
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